GENERAL SERVICES ADMINISTRATION SURPLUS PROPERTY

HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 134, S. 1422, S. 1444, and S. 1664

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CONTENTS

Page

Opening statement of Senator Stevens 1

WITNESSES

THURSDAY, OCTOBER 15, 1981

Hon. Strom Thurmond, U.S. Senator from the State of South Carolina 3
William R. Campbell, Jr., Deputy Commissioner, Federal Property Resources Service, General Services Administration, accompanied by Earl E. Jones, Assistant Commissioner, Office of Real Property, FPRS, and Francis B. Roche, Assistant Commissioner, Office of Personal Property, FPRS 11
Hon. Charles E. Grassley, U.S. Senator from the State of Iowa 24
John E. Dickey, Assistant Associate Director, State and Local Programs and Support Directorate, Federal Emergency Management Agency, accompanied by Joseph Mealy, State and Local Programs and Support Directorate, and George Jett, General Counsel 33
Hon. William V. Roth, Jr., U.S. Senator from the State of Delaware 39
Wayne Ellingsworth, director, Sussex County Department of Emergency Preparedness, Georgetown, Delaware 40
W. H. DuBose, director, Macon-Bibb County Civil Defense, Macon, Georgia 54
William Brennan, executive assistant, American Correctional Association 57
Jeffrey Harris, Deputy Associate Attorney General, Department of Justice 68

ALPHABETICAL LIST OF WITNESSES

Brennan, William:
Testimony 57
Prepared statement of Anthony Travisono, with attachment 59
Campbell, William R.:
Testimony 11
Prepared statement 17
Responses to written questions submitted by Senator Stevens 21
Dickey, John E.:
Testimony 33
Responses to written questions submitted by Senator Stevens 37
DuBose, W. H.: Testimony 54
Ellingsworth, Wayne:
Testimony 40
Additional material submitted for the record 43
Grassley, Hon. Charles E.:
Testimony 24
Prepared statement, with attachment 27
Harris, Jeffrey:
Testimony 68
Response to written questions submitted by Senator Stevens 70
Language recommendations for legisiation 73
Jett, George: Testimony 33
Jones, Earl E.: Testimony 11
Mealy, Joseph: Testimony 33
Roche, Francis B.: Testimony 11
Roth, Hon. William V., Jr.: Testimony 39
Thurmond, Hon. Strom: Testimony 3

Page

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Briefing paper on excess and surplus property procedures 2
Statement of Hon. Daniel K. Inouye, U.S. Senator from the State of Hawaii 6
Text of:
S. 134 83
S. 1422 87
S. 1444 90
S. 1664 92
Statements from:
American Association of State Highway and Transportation Officials, Francis B. Francois, executive director 95
State of Alaska, Governor Jay S. Hammond 99
State of Washington, Governor John Spellman 100
Departments:
Army 108
Transportation 110

GENERAL SERVICES ADMINISTRATION SURPLUS PROPERTY

THURSDAY, OCTOBER 15, 1981

U.S. SENATE,
SUBCOMMITTEE ON CIVIL SERVICE,
POST OFFICE, AND GENERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 9:35 a.m., in room 1318, Dirksen Senate Office Building, Hon. Ted Stevens (chairman of the subcommittee) presiding.

Present: Senator Stevens.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Good morning.

This morning the Subcommittee on Civil Service, Post Office, and General Services will hear testimony on four bills dealing with the donation of surplus and excess Federal property for certain specified public uses.

S. 1444 authorizes the donation to State and local governments of excess personal property loaned to them for civil defense use and terminates the civil defense property loan program. S. 1664 reopens the loan program which would be closed out by S. 1444.

S. 1422 authorizes the donation of specified types of surplus property to States for the construction and modernization of criminal justice facilities.

Finally, S. 134 authorizes the donation of surplus real or personal property for use in connection with a public harbor.

Because the distinction between surplus and excess is not widely understood, I will insert at the end of my statement a briefing paper pointing out the differences for the record.

Over the past several decades, the surplus property program has provided a multitude of public agencies and tax supported or nonprofit organizations with essential assistance. Sometimes the receipt of surplus property such as hospital or laboratory equipment or emergency vehicles has meant a make-or-break difference for public organizations. In recent years, the number and diversity of these beneficiaries has grown dramatically. Today, eligible recipients include Indian tribes and villages, schools and universities, educational radio stations, hospitals and clinics, and any public agency promoting one of a variety of public purposes.

Surplus donations or discounted sales have been able to meet many more and different needs because legislation passed in 1976

reformed property reutilization policy in several key ways. It made GSA solely responsible for fair and equitable distribution among all the States, it greatly enlarged the responsibility of individual States for distribution within their borders, it removed most of the former provisions for preferential treatment of recipients, and it broadened eligibility.

Three of the bills we will consider this morning—S. 134, S. 1422, and S. 1664—would alter policies established by the 1976 legislative changes by granting preference or potential preference to certain users over others. The objectives of each of these proposals are indeed laudable and deserve careful analysis. However, any preferential treatment, no matter how worthy, dilutes the pool of property available for all other eligible users and therefore will need to be exceptionally justified before Congress will approve such changes.

[Briefing paper on excess and surplus property procedures follows:]

Excess And Surplus Property Procedures

PERSONAL

When an agency no longer needs personal property, it is made available to GSA for a period of 60 days for possible transfer to other Federal agencies. Such property is called "excess" and may be transferred to other agencies for direct use, use by their cost-reimbursable contractors or their project grantees. Excess property is transferred on a nonreimbursable basis except that project grantees must pay 25 percent of its original acquisition cost. PL 94-519 exempted the following from the reimbursement requirement: Property furnished to aid project grantees under the Foreign Assistance Act; equipment furnished to National Science Foundation grantees; excess property furnished to grantees under the Cooperative Forest Fire Control Program; and agencies with grants to Indian tribes.

Transfers are normally approved on a first-come-first-served basis, with consideration given to national defense needs, the need to preclude new procurement, emergency needs and transportation costs. Title is retained by the Government.

After 60 days, excess personal property not required by the Federal Government is determined "surplus" and made available to the States for a 21-day period when it may be requested for any public purpose or any nonprofit educational or public health institution or organization. Surplus property is allocated to the States on an equitable distribution basis and further distributed to eligible institutions within the State by a State agency established by law and operating under a plan of operation approved by GSA. The State agency for surplus property may distribute surplus property for such purposes as public airports, which receive preferential treatment, conservation, economic development, education, parks and recreation, public health, and public safety; or to nonprofit institutions such as medical institutions, hospitals, clinics, health centers, schools, colleges, and universities.

REAL

When an agency no longer needs real property, it is reported to GSA as excess. GSA then notifies Federal agencies that the property is available for further use. Agencies have 30 days to notify GSA of their interest in acquiring the property. If a transfer is requested, GSA determines whether the request is fully justified and, if so, the property is made available to the requesting agency.

However, the concurrence of the Office of Management and Budget is required with respect to a transfer request where the property is valued at $1,000,000 or more.

If a further Federal need for an excess property does not develop, or cannot be justified, the property is determined surplus by GSA. After such determination, State and local governmental bodies and nonprofit health and educational institutions are notified of the availability of surplus real property which they may acquire for specific uses pursuant to various provisions of law. Eligible applicants are given a period of 20 days to inform GSA of their desire to acquire the property, although additional time may be granted.

The main purposes for which surplus real property may be made available to eligible local interests, and the money consideration involved are as follows: public park and public recreational purposes at up to 100-percent public benefit allowance; historic monument purposes without monetary consideration; public health or educational purposes at up to 100-percent public benefit allowance; wildlife conservation purposes without consideration; public airport purposes without consideration; and by negotiated sale without use restriction at fair market value.

Frequently, interest in acquiring a property is expressed by more than one public body or nonprofit institution. Where there are competing interests involved, GSA encourages coordination among the applicants at the local level as far as possible. The Administrator of General Services may select, on the basis of findings as to the highest and best future use, various methods of disposal of surplus real property for public or private purposes. The Property Act provides discretion in this area because real property disposal involves many variable factors which bear on decisions as to future use. Accordingly, the regulations provide extensive coverage as to procedures for gathering information necessary to make proper disposal decisions. Under these procedures, comments concerning the best future use for individual properties are obtained from Federal, State, and local planning agencies and governmental bodies and from private citizens or interested community groups.

Surplus real property which is not disposed of for local public use is offered for sale. Ordinarily, properties are offered for sale to the public after advertising on a competitive-bid basis. The appraised fair market value of the property underlies all sale transactions.

Senator STEVENS. Good morning, Senator, the distinguished President pro tempore of the Senate. I am sorry to have kept you waiting.

TESTIMONY OF HON. STROM THURMOND, U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. That is all right, Mr. Chairman.

I am very honored to appear before this subcommittee which has such a distinguished and able chairman.

I am very pleased to appear and discuss the merits of S. 1444 which I introduced on July 8 of this year.

This bill will provide needed relief for the State and local governments, for the Federal Government, and for civil defense organizations.

Many local and State governments have in their possession today equipment which has been loaned to them by the Department of Defense. These property loans came through the now-defunct Defense Civil Preparedness Agency (DCPA)—a former Defense Department entity. As a result of legislation enacted by the 96th Congress in September 1980, this property now belongs to the Federal Emergency Management Agency (FEMA)—a nondefense organization.

S. 1444 would transfer title of this property to the local and State governments that actually have possession of it.

About 30,000 pieces of equipment are involved. Most of it is more than 7 years old and a large portion of it is over 20 years old. Whenever possible, the States nave kept the equipment in good operating condition. In most instances the local authorities modified the equipment at considerable expense with their own resources to make the property more suitable for emergency, rescue, and civil defense purposes.

When the property was transferred, it was generally of low value to the Federal Government but of significant value to the States. In most instances, the local taxpayers have more than paid for the

equipment by providing maintenance and modifications over the years.

Now we have a situation, because of the reorganization of the civil defense program, in which the States have no simple mechanism to dispose of unwanted civil defense property. Furthermore, it is my understanding the FEMA does not desire to recover this equipment and, in fact, FEMA supports my bill to transfer title to the State and local governments.

The transfer authority provided in my bill is the simplest, least expensive, and most expeditious method of resolving this problem. It is also the most equitable solution.

I might say, too, that I want to commend President Reagan for giving more attention to civil defense than has been done by administrations in the past. This is a very vital area. Including civil defense as part of President Reagan's strategic program adds tremendous strides in this respect. We have been lagging. I am pleased that he will give more attention to this important field.

I wish to thank you, Mr. Chairman, for your attention.

Senator STEVENS. Thank you, Senator. I understand your bill. Is there some time frame after which the property would be transferred to the States? Would it all be transferred to the States now, whether it was gotten 1 or 15 years ago? Is there some time period after which the transfer would be authorized?

Senator THURMOND. It would be transferred upon passage of the bill.

Senator STEVENS. All of it would be transferred, even the property they got this last year?

Senator THURMOND. That is correct. They did not get anything from DCPA after it was absorbed by FEMA. So, all property given prior to that will be transferred.

Senator STEVENS. The idea is that under your bill, from now on——

Senator THURMOND. Most of this property is old property, 15, 20 years old. As I have stated, the States have spent only, probably, as much as it is worth in modifications, improving it, carrying it forward, and so forth. So it leaves it to the States to handle.

Senator STEVENS. I understand that. They have made substantial expenditures on it. But I just wonder, is there any period of time within which the property ought to be considered on loan in your opinion?

Senator THURMOND. My understanding, Mr. Chairman, is that upon passage of the bill, the title would pass to——

Senator STEVENS. The loan program expired, I understand, about 2 years ago. There is a bill before us to reopen that program, to reinstate that program. What I am asking you is, in your opinion, should we consider this property on loan for any period or should the committee view this as being property, the title of which ought to be properly transferred to the recipient upon its conveyance from the Federal Government, from FEMA to the State or local governments?

Senator THURMOND. I would think, Mr. Chairman, it could be transferred upon the passage of the bill. I would see no special reason, if the committee deems it advisable, to allow some period there. Of course, they could do that. It seems to me that State and

local authorities have had most of this property—not all of it, but most of it—for 15 or 20 years. A lot of it is old and obsolete. They are being charged with it. So it seems to me the best thing is just to turn it over to them. FEMA supports this theory.

Senator STEVENS. One last question, Senator. Some of this equipment was transferred on the basis of certain conditions. There were conditions the property had to be used for specific purposes under some of these programs. Would you believe that if we report out your bill those conditions should also be eliminated; in other words, that property would be transferred to the States or recipients without condition?

Senator THURMOND. If the committee feels that is advisable, that could be done. However, I think we could fully trust the States and local subdivisions in using their good judgment in handling this matter.

Senator STEVENS. All right, sir. We appreciate it. Thank you.

Senator THURMOND. Thank you very much.

Senator STEVENS. We will do our best to consider your bill promptly.

Senator THURMOND. Thank you, sir.

Senator STEVENS. At this point in the record we would like to insert Senator Inouye's statement concerning his bill, S. 134.

[Senator Inouye's prepared statement, with an attachment, follows:]

TESTIMONY BY SENATOR DANIEL K. INOUYE BEFORE THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS, SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES ON S.134, A BILL TO PROVIDE FOR THE DONATION OF SURPLUS FEDERAL REAL PROPERTY FOR USE IN CONNECTION WITH A PUBLIC HARBOR

OCTOBER 14, 1981

Mr. Chairman, the Surplus Property Act of 1949 allows the transfer of surplus federal real property, without monetary compensation, to local governments for development or improvement of public airports. Current General Services Administration regulations and procedures also provide for the conveyance of surplus lands for public airport use, or for wildlife conservation, or historical monuments, as long as the lands remain in that use in perpetuity.

This policy is a result of the clear national interest in public airport development, improvement, operations and maintenance. But we should not forget that these national interests also exist with respect to our nation's public harbor facilities which are presently excluded from the kind of preferential treatment now accorded public airports.

During the 96th Congress, as Chairman of the Commerce, Science, Transportation Subcommittee on Merchant Marine and Tourism, I became increasingly concerned with the current state of not only our U.S. Merchant Marine but also with the inability of local, municipal state governments and port authorities to meet the growing facility demands on our nation's harbors and ports.

In my own state of Hawaii for example, we are heavily dependent on water transportation for our sustenance. Approximately 80 percent of the goods consumed within the State are imported, of which 98 percent flows through our state-operated harbor system. Our state government can acquire federal surplus property for use in connection with public airports at not cost, yet must pay fair market value for federal surplus property for use in connection with a public harbor.

This unequal treatment is expensive to our state government and proves to be the major cause of little harbor development or improvement, especially in view of the fact that federal ownership of real property near and around Hawaii harbors is dominant.

As a result of these concerns I introduced S.1570 during the 96th Congress and reintroduced it in the 97th in the form of S.134.

It would amend the Federal Property and Administrative Service Act of 1949 to authorize the donation of federal surplus real property for use in connection with a public harbor. The bill also conveys the surplus property in perpetuity and at no cost, as is the case with public airports.

My purpose is to seek for public harbors the same treatment accorded public airports in the disposition of federal surplus real property.

Mr. Chairman, in closing, I wish to express my appreciation to you and the Subcommittee for your consideration of S.134.

May I request that a copy of the written testimony by the Department of Transportation for the State of Hawaii be made a part of the record. Thank you.

Attachments

WAYNE J. YAMASAKI

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION

TESTIMONY OF THE STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ON S.134 - 97th CONGRESS, 1st SESSION

A BILL TO AMEND SECTION 203
OF THE FEDERAL PROPERTY AND
ADMINISTRATIVE SERVICES ACT OF 1949

As the shipping industry is recognized as one of the more important factors in the Nation's domestic and international commerce, it should also be recognized that the port terminals which service the vessels is an essential link to the entire waterborne transportation system. The port facilities must be continuously improved and expanded to keep pace with vessel and cargo handling technology, in order that the entire waterborne transportation system can operate economically and efficiently. Bill S.134 will assist the public ports of this nation to meet growing facility demands.

This proposed amendment will give the Nation's public port system parity with the public airports which now enjoy the privilege to acquire surplus Federal lands at no cost.

Here in Hawaii, we are heavily dependent on water transportation for our sustenance. About 80 percent of the goods consumed within the State are imported, of which 98 percent flows through our State-operated harbor system.

This system is operated, maintained, and improved from revenues received from user charges, which are eventually borne by the consumers of this State.

Therefore, it is imperative that Hawaii's harbor system remain effective and efficient to minimize costs to the citizens of our State.

Due to the State's existing and projected growth, the existing harbor facilities are being continuously improved to maximize their utilization.

Unfortunately, these facilities are approaching the saturation point and timely expansion at minimum cost is necessary to meet the anticipated needs.

We strongly support S.134 because it would provide: (1) an economically and technically feasible means of immediately expanding our principal and busiest port in the system, Honolulu Harbor; and (2) efficient operating areas at Barbers Point Harbor.

In Honolulu Harbor, the U. S. Government-owned areas which can be immediately utilized by the State are (1) improvements at Piers 39-40 and the adjacent back-up areas which are now being leased from the U. S. Army for Foreign Trade Zone and cargo handling activities, and (2) the marginally utilized Kapalama Military Reservation in the vicinity of Pier 41 offers an excellent opportunity to expand maritime-related activities, such as ship repair, an expanded food distribution center and trade zone.

The U. S. Government-owned Camp Malakole Lands at Barbers Point, Oahu, now protrudes into the back-up area of the Barbers Point Harbor, essentially bisecting the operating area in the southeast corner which will reduce overall efficiency in cargo handling and severely limit any possibility of expansion in this sector in the future.

The provisions of S.134 will greatly assist Hawaii's, as well as the Nation's, port system to meet future demands.

For these reasons, we request that S.134 receives your favorable consideration.

Senator STEVENS. Mr. Campbell, representing GSA.

Mr. CAMPBELL. Good morning, Mr. Chairman.

Senator STEVENS. You are here, as I understand it, on four bills—S. 134, S. 1422, S. 1444, and S. 1664—is that correct?

Mr. CAMPBELL. That is correct, sir.

Senator STEVENS. You have Mr. Roche and Mr. Jones accompanying you.

Mr. CAMPBELL. Yes; both are here with me.

TESTIMONY OF WILLIAM R. CAMPBELL, JR., DEPUTY COMMISSIONER, FEDERAL PROPERTY RESOURCES SERVICE, GENERAL SERVICES ADMINISTRATION, ACCOMPANIED BY EARL E. JONES, ASSISTANT COMMISSIONER, OFFICE OF REAL PROPERTY, FPRS, AND FRANCIS B. ROCHE, ASSISTANT COMMISSIONER, OFFICE OF PERSONAL PROPERTY, FPRS

Mr. CAMPBELL. On behalf of the Administrator of General Services, Mr. Chairman, thank you for the opportunity to express our views on the four bills you have just mentioned. Basically these bills deal with the distribution and use of both real and personal property. Just briefly, I would like to extract from the statement we did submit, which is quite long, and try to break it down for you in a short period of time.

Senator STEVENS. I appreciate that. Your statement will be printed in full in the record following your testimony.

Mr. CAMPBELL. Yes, sir. We have submitted it for the record, the statement in full.

Some general comments and then briefly I will talk specifically on each bill.

With respect to the donation of surplus Federal property for public purposes, the Federal Property and Administrative Services Act of 1949, as amended, and related statutes, authorize the disposal of surplus real property for certain public purposes, including park and recreation, health, education, airports, historic monuments, and wildlife conservation. Such disposals are made either without consideration or at a substantially reduced monetary consideration and are deeded subject to certain use restrictions.

Further, section 203(e)(3)(H) of the Property Act authorizes the negotiated sale of surplus real property without any restrictions to eligible local governmental units, provided the estimated fair market value of the property and other satisfactory terms of disposal are obtained.

A general comment on the personal property. It is important to note that in enacting Public Law 94-519, Congress declared that one of the purposes of the bill was to bring together many similar but separate programs to establish an orderly, efficient, and fair system for distributing by donation Federal surplus personal property to public or nonprofit institutions for use of a public character. Congress also declared there was an urgent need to group all the donation programs together in an orderly system, to make one Federal agency primarily responsible for overall guidance, and to give the States a larger role in the distribution and administration of the program, thereby effecting a fair and equitable distribution of the property allocated to the States to all eligible within the State.

Accordingly, Congress provided that all Federal surplus personal property be distributed by a single State agency specifically established for that purpose by each of the States.

Just a brief comment on each of the bills that we are here to talk about today.

S. 134, this is to amend section 203 of the Property Act to authorize the donation of surplus real or personal property for use in connection with a public harbor.

S. 134, if enacted, would permit public bodies through the Secretary of the Army to obtain personal property directly without going through their State agency. We believe such a change would adversely affect the present system which has been carefully designed to insure the fair and equitable distribution of property.

In regard to real property, this bill proposes to amend section 203 of the Property Act to include donation of surplus real property for public port use.

As stated previously, while monetary considerations may be required in the case of a worthwhile purpose, it is this requirement which maintains the balance between reasonable satisfaction of local needs for surplus real property as opposed to unmanageable fragmentation of such property.

The donation without monetary consideration of surplus real property—which would in effect be a subsidy to a contemplated revenue-producing project, or a commercial venture, or be used to defray costs of local government, benefiting its users—would not be in the best interest of the Government. Port projects should be viable financially without a subsidy in the form of Federal property. Surplus real property is a valuable asset which is generally not donated for revenue-producing uses under existing law. We believe this policy should continue.

I will comment briefly on S. 1422. In recognition of the administration's strong commitment to provide assistance and support to States and localities in the criminal justice area, GSA supports S. 1422, which would authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

We will be working with the Justice Department to develop amendments to the bill for your consideration. We believe these amendments will better enable us to carry out the intent of the legislation, while at the same time providing better protection for the essential interests of the United States.

GSA supports the enactment of S. 1444 which would authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense purposes. This bill would provide the Federal Emergency Management Agency with relief for continued surveillance and accountability for a large quantity of property obtained as excess which is on loan to the State and local governments for civil defense purposes.

In the case of S. 1664, under this bill, the Federal Emergency Management Agency would be authorized to obtain Department of Defense excess personal property on a priority basis over other Federal agency needs, including the use of Government agencies' excess in lieu of new procurement. The bill would in addition give

FEMA a priority in the acquisition of Federal civil agency excess personal property over the donation program.

As earlier stated, the objective of Public Law 94-519 was to combine into a single system the distribution of surplus personal property to non-Federal activities. In our experience and that of the States and other eligible participants, Public Law 94-519 has proven to be sound legislation. S. 1664, if enacted, would give FEMA priority and would seriously compromise the effectiveness of Public Law 94-519. GSA is opposed to S. 1664.

This concludes my prepared statement, or extracts from my prepared statement, Mr. Chairman. I would be happy to respond to any questions the subcommittee might have.

Senator STEVENS. Let's see if I understand it. You are opposed to S. 1664, but what is your position on Senator Thurmond's bill, S. 1444?

Mr. CAMPBELL. We are in favor of Senator Thurmond's bill.

Senator STEVENS. You are opposed to S. 134 which would bypass the States. Is that correct?

Mr. CAMPBELL. That is correct. And we are in favor of S. 1422.

Senator STEVENS. S. 1422 is agreeable, all right.

Have you any other recommendations to make to the committee about revisions of the 1976 act?

Mr. CAMPBELL. No, sir.

Senator STEVENS. Have you looked at it for that purpose?

Mr. CAMPBELL. No, we haven't.

Senator STEVENS. Would you please do so? I think the thing to do, with the agreement of Senator Thurmond, would be to put some of these bills together so that if they all refer to the 1976 act, see what revisions are necessary from the administration's point of view at this time.

Mr. CAMPBELL. Mr. Chairman, I have been advised that we have made some recommendations. I am going to ask Mr. Roche to give you a brief statement on this.

Mr. ROCHE. Yes, sir. Under Public Law 94-519, we were required to submit a report to the Congress on the effectiveness of that legislation. This was done.

Senator STEVENS. When?

Mr. ROCHE. As specified in the law, 30 months from its effective date; April 1980, I believe, sir.

Senator STEVENS. Did you have any proposed legislation at that time?

Mr. ROCHE. Yes, sir. There were several items in there, one being a proposal to do away with the priority of public airports to obtain surplus personal property. There were several others in that report. I don't have it here.

Senator STEVENS. The committee will review it. I would appreciate it if you would review it again and see if you have any further recommendations.

Do you have any idea how much revenue might be lost as a result of S. 134?

Mr. CAMPBELL. I am going to ask Mr. Jones, who has done a little bit of analysis on this, Mr. Chairman, to respond to that.

Mr. JONES. Mr. Chairman, it is our estimation that this would involve a loss of millions of dollars. We are engaged right now in the

disposal of a number of these properties. We have nine properties in our inventory right now. All are contemplated for sale. I would prefer not to state in detail what the loss would be because it could compromise or impact on our negotiations right now. But we are talking about millions of dollars.

Senator STEVENS. Is there any cost currently in keeping track of the equipment that is on loan to the States under the loan program that would be affected by Senator Thurmond's bill? Do you keep track of it in GSA?

Mr. ROCHE. No, we do not.

Senator STEVENS. Does anybody keep track of it in Government?

Mr. CAMPBELL. Yes, sir. FEMA does.

Senator STEVENS. But you currently have no expenses in GSA as far as that program is concerned?

Mr. CAMPBELL. That is correct, sir.

Senator STEVENS. I will ask FEMA about that.

Do any of your regulations impose costs on the State or local governments managing that property? Do you have reports that must be submitted to you on any of that property now?

Mr. CAMPBELL. Not on that property, no. We do have reports as part of our donation program, however.

Senator STEVENS. After the property is conveyed?

Mr. CAMPBELL. That is correct.

Senator STEVENS. Which program is that?

Mr. CAMPBELL. Well, this would be the personal property donation program where we donate to the States and the States are required to give us reports on that.

Senator STEVENS. How long?

Mr. CAMPBELL. How frequent?

Senator STEVENS. How long do those reports continue after the property is conveyed for airport purposes, for instance?

Mr. CAMPBELL. The length of time which they have to report to us depends on the terms of compliance with the use of that particular item. That will vary, depending on what we feel the value of the item is or what is felt the value of the item is and how long it should be put in that use it is specified for.

Senator STEVENS. Do you administer any loan programs of surplus property or excess property of any kind?

Mr. CAMPBELL. No, sir.

Senator STEVENS. What about the disaster program? Are you involved in that?

Mr. CAMPBELL. In the disaster program, we will work with FEMA temporarily on loans of property, yes.

Senator STEVENS. What I am trying to find out is whether there are any restrictions of any kind emanating from GSA on property that is transferred to States or local governments under either loan or donation programs that require reporting, or that require constant expenditures of funds after the property is transferred.

Mr. CAMPBELL. The one that I spoke of, the donation program, requires the States to report on those pieces of property which are still under the compliance limits. That is the only program they have to report on. They do do audits and they are required to report on their audits. They are required by public law to do that. I believe that is every 2 years, once every 2 years. They are required

to have a formal audit of their program which they submit the report to us. We do miscellaneous audits ourselves on the program.

Senator STEVENS. As I understand S. 134, it would donate certain property to harbors. In the past, has that property been sold by GSA?

Mr. CAMPBELL. Yes.

Senator STEVENS. What kind of revenue are we talking about as far as that program is concerned?

Mr. CAMPBELL. Mr. Jones, I think, referred to nine properties which could yield revenues of millions of dollars.

Senator STEVENS. I am talking specifically now about S. 134 property.

Mr. CAMPBELL. That is correct.

Senator STEVENS. Can you tell us what kind of revenue the Government has been getting from the sale of that surplus property?

Mr. CAMPBELL. Well, we are now negotiating for the sale of those pieces of property of which Mr. Jones spoke. We will get several millions of dollars income to the Government if S. 134 doesn't require us to give it away.

Senator STEVENS. My question is, are you selling it now?

Mr. CAMPBELL. Yes.

Senator STEVENS. Can you identify how much income we have gotten in the past from that kind of property?

Mr. JONES. I would say, depending on how far we go back, you are talking in the neighborhood of $50 million or more. For example, we sold the Boston Naval Shipyard and the Brooklyn Naval Shipyard in the past. These involve millions of dollars. I can name other properties, depending how far we go back in time. But as an estimate, I would say $50 million or more.

Mr. CAMPBELL. I think from the current inventory, without identifying specific properties and the estimated values, we can estimate revenues of somewhere between $30 and $50 million if we sold the properties covered by S. 134.

Senator STEVENS. I see. Who currently maintains the inventories for this property, you or FEMA? What we are talking about is harbor properties.

Mr. CAMPBELL. We do.

Senator STEVENS. Are you obligated to transfer it to any other entity under any other program if S. 134 does not pass? My real question is, if S. 134 does not pass, would there be income to the Government for sure or is there some other program that you would have to recognize if someone asked for transfer?

Mr. CAMPBELL. The law as it stands right now does authorize donations of property for educational purposes, for parks and recreation purposes, for wildlife conservation purposes and historic purposes, either for no compensation or partial compensation.

Senator STEVENS. So it is not certain that the Federal Government would get any revenue under the proposals Mr. Jones mentioned. Is that right?

Mr. CAMPBELL. The present program which we operate under, the Government does generate revenue. For instance, the revenue we just spoke about which we anticipate on receiving from harbor type properties.

Senator STEVENS. But if the city came in and asked you for it for a park, you would be required to review that. Is that right?

Mr. CAMPBELL. We would be required to review it. We are not required, however, to make a donation. We review the merits of a proposed use on the recommendations of the sponsoring agency, and the Administrator makes a decision as to whether that use would serve the best interest of the country. Our basic criteria is that we want to put the property to the best use as far as the Federal Government and the public are concerned.

Senator STEVENS. But if the city decided they wanted the property for a harbor, would they have to buy it?

Mr. CAMPBELL. Yes.

Senator STEVENS. If they wanted it for a revenue-producing facility, in that event, they would have to buy it. Is that right?

Mr. CAMPBELL. That is correct. With respect to revenue-producing properties, we believe very strongly that the revenue-producing property should be capable of supporting its function and supporting the purchase of the land. Revenue-producing property is usually used for commercial purposes and therefore it is not open to the general public or used by the public.

Senator STEVENS. That wouldn't apply to harbors?

Mr. CAMPBELL. Harbors would generally be a commercial type of facility.

Senator STEVENS. A small boat harbor, for example. I am trying to get to this rationale that you have for opposing S. 134. I don't quite understand it. Here are laws that you administer that would authorize you to give this property away for all kinds of environmental and other kinds of purposes, but if it is something the city wants for a small boat harbor, it could not be conveyed to them except on the basis of some bid process, as I understand it.

Mr. CAMPBELL. I think the easiest way to state how we would draw the line is to say that we draw the line between what is for general public benefit, a general use such as educational purposes, public parks, et cetera, versus a commercial venture which will have a use limited to that commercial venture, although the public may use it for limited public purposes. I think that is basically where we try to draw the line. If it is a commercial venture, it should pay its own way. If it is for public benefit such as parks, recreation, educational facilities or wildlife conservation, we generally feel that a discount conveyance is justified. We do not arbitrarily donate property on request. We also try to decide whether the proposed use is the best use, and make sure that it is restricted to that use. The restriction generally requires that the property be used for that particular purpose for 30 years—or another specified period. The responsible agency then makes periodic compliance reviews to make sure the recipient is using it for the purpose specified. There are restrictions when it is donated. They are restricted to use it for the stated purpose for which it was donated.

Senator STEVENS. You are talking about both real and personal property in that program.

Mr. CAMPBELL. I am talking about real property at the present time. When personal property is donated to the State, the State is responsible for making sure it is being used properly, although we do double check them on that.

Senator STEVENS. What kinds of expenditures are you making to police those restrictions? For example, you just mentioned 30 years. How often would you check to see whether any equipment was used for the purpose the Government intended?

Mr. CAMPBELL. In the case of educational facilities, the Department of Education is responsible for compliance reviews. In the case of parks and recreation, it is the Interior Department's responsibility. In the case of airports, it is FAA's responsibility.

GSA does make spot checks. We have limited funds to do onsite compliance reviews. What we are really doing is checking on Interior and on the Department of Education to make sure they are carrying out their compliance responsibilities.

Senator STEVENS. You can transfer to States or local governments real property for airport purposes, right?

Mr. CAMPBELL. Yes.

Senator STEVENS. You can do the same thing for educational purposes to the States?

Mr. CAMPBELL. Yes. Through the Department of Education.

Mr. JONES. With respect to airport conveyances, GSA actually gives title. FAA is responsible for compliance and monitoring of the program.

Senator STEVENS. I am just trying to find out why—I come from a State that has half the coastline of the United States. I would like to know why the difference with regard to harbors as compared to airports. Why does your agency think harbors should not be conveyed whereas airports could be conveyed to the States?

Mr. CAMPBELL. Well, the statute that authorizes airport conveyances is a 1944 statute. I don't think there is much difference between an airport and a harbor. I think it is a matter of degree. Discount disposals for airport purposes were a logical step when they were authorized in 1944. I think today we would probably suggest that they should be treated the same way we are suggesting the harbors be treated.

Senator STEVENS. But the law doesn't do that now.

Mr. CAMPBELL. That is correct.

Senator STEVENS. We will have some questions to submit to you for the record. It does seem that you are presenting an inconsistent position with regard to these bills. Again, I want to review the whole subject and if possible, have one bill with all the items put into one bill. If that is not possible, of course we will report out the separate bills.

I do appreciate your comments. We have some additional questions about the criminal justice facilities covered in the other bill, too.

Mr. CAMPBELL. I appreciate it, sir.

Senator STEVENS. Thank you for your appearance.

Mr. CAMPBELL. We thank you for the opportunity.

[Mr. Campbell's prepared statement and responses to written questions from Senator Stevens follow:]

PREPARED STATEMENT OF WILLIAM R. CAMPBELL, JR.

I am William R. Campbell, Deputy Commissioner, Federal Property Resources Service of the General Services Administration. On behalf of the Administrator of General Services, I wish to thank you for the opportunity to express the views of the

General Services Admistration on Senate Bills 134, 1422, 1444, and 1664. These bills deal with the distribution and use of both real and personal property. I would like first to make some general comments, and then I will discuss each bill separately.

With respect to the donation of surplus Federal real property for public purposes, the Federal Property and Administrative Services Act of 1949, as amended, (Property Act) and related statutes, authorize the disposal of surplus real property for certain public uses, including park and recreation, health, education, airports, historic monuments, and wildlife conservation. Such disposals are made either without consideration or at a substantially reduced monetary consideration and are deeded subject to certain use restrictions. Further, section 203(e)(3)(H) of the Property Act authorizes the negotiated sale of surplus real property without any use restrictions to eligible local governmental units, provided the estimated fair market value of the property and other satisfactory terms of the disposal are obtained.

With respect to personal property, it is important to note that in enacting Public Law 94-519, Congress declared that one of the purposes of the bill was to bring together many similar but separate programs to establish an orderly, efficient, and fair system for distributing by donation Federal surplus personal property to public or nonprofit institutions for uses of a public character. Congress also declared there was an urgent need to group all the donation programs together in an orderly system, to make one Federal agency primarily responsible for overall guidance, and to give the States a larger role in the distribution and administration of the program, thereby effecting a fair and equitable distribution of the property allocated to the States to all eligible within the State. Accordingly, Congress provided that all Federal surplus personal property be distributed by a single State agency specifically established for that purpose by each of the States.

I would now like to comment on each bill in order.

S. 134

GSA is opposed to S. 134, a bill "To amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor."

In regard to personal property, the bill would enlarge on the categories of organizations, institutions, and agencies which are eligible to receive Federal surplus personal property via donation. "Public Harbors," as defined in S. 134, are among the types of activities already declared eligible to obtain such property via state donations; therefore no legislation is required to accomplish this purpose. S. 134, if enacted, would permit public bodies, through the Secretary of the Army, to obtain personal property directly, without going through their State agencies. We believe such a change would adversely affect the present system, which has been carefully designed to ensure the fair and equitable distribution of property.

In regard to real property, S. 134 proposes to amend section 203 of the Property Act to include donation of such surplus property for public port use.

There are undoubtedly any number of worthwhile public purposes for which Federal surplus real property could be made available to competent grantees. However, it is obvious that all such interests cannot be satisfied without fragmenting available surplus real property to the point that none of the competing interests can adequately fulfill legitimate needs for such property.

If the use of surplus real property for public port purposes is meritorious in a particular case, the provisions of section 203(e)(3)(H) of the Property Act are available to allow the acquisition of surplus real property for such purposes. While monetary consideration may be required in the case of a worthwhile purpose, it is this requirement which maintains the balance between reasonable satisfaction of local needs for surplus real property as opposed to the unmanageable fragmentation of such property. Additional discount disposals will also reduce needed revenues from the sale of property which could be used to help offset the national debt.

The donation without monetary consideration of surplus real property which would in effect be a subsidy to a contemplated revenue-producing project or be used to defray costs of local government, benefiting only its users, would not be in the best interest of the Government. Port projects should be viable financially without a subsidy in the form of Federal property. Surplus real property is a valuable asset which is generally not donated for revenue-producing uses under existing law. We believe this policy should continue. The donation of surplus property for airport purposes is an exception to this general rule which was justified by the special purpose nature of existing facilities, the very large investment of the Federal Government in existing facilities, the high priority national defense interest in the maintenance of such facilities, and the extremely high cost to local governments of such facilities.

Should S. 134 be favorably considered, we suggest the authority to make such a conveyance and the responsibility to enforce compliance with the terms of such conveyance be vested in the Administrator of General Services. To do otherwise would not be in the best interest of the Government as it would only further fragment property disposal authority and result in duplication of efforts and resources and instances of noncompliance. This is predicated on studies and reports prepared by the General Accounting Office, the House Government Operations Committee and GSA, which have asserted the need for an authoritative and enforceable compliance program to prevent instances of misuse.

S. 1422

In recognition of the Administration's strong commitment to provide assistance and support to states and localities in the criminal justice area, GSA supports S. 1422, a bill "To authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities." We will be working with the Department of Justice to develop amendments to the bill for your consideration. We believe these amendments will better enable us to carry out the intent of the legislation, while at the same time providing better protection for the essential interests of the United States.

In the case of real property, we are particularly concerned about the need for a right of reversion to the United States if the property should cease to be used for criminal justice facilities. As presently drafted, the bill would convey property with no reversionary rights in event of nonuse, and no compliance monitoring required to ensure appropriate use for the purposes conveyed. We do not believe that any transfers should take place without these very basic safeguards of the interests of the United States. Responsibility for enforcing compliance with the terms of such conveyance should be vested in the Administrator of General Services.

S. 1444

GSA supports the enactment of S. 1444, a bill "To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes." The bill would provide the Federal Emergency Management Agency (FEMA) with relief from continued surveillance and accountability for a large quantity of property obtained as excess which is on loan to State and local governments for civil defense purposes. This would close out the prior property loan program conducted by the Defense Civil Preparedness Agency (DCPA).

Much of the property on loan had already been subjected to long Federal use, and in many cases repair parts are no longer available. In these instances, repossession of the property would be burdensome, and the estimated costs of reclaiming the property and ultimate disposal would far outweigh any anticipated revenues. Additionally, State and local governments have, in many cases, made substantial expenditures to repair or rebuild the loaned equipment to make is usable. Requiring the equipment to be returned would deprive these jurisdictions of their investments in this property. It should be noted that Public Law 94-519, which amended the Property Act, made all local and State governments eligible to receive Federal surplus property. Accordingly, passage of the proposed legislation with the changes suggested would be cost-effective and beneficial to the Federal Government as well as to the prospective donees. It would relieve FEMA of the burdensome and costly responsibility of maintaining accountability and surveillance of the Federal excess property now on loan to various civil agencies and vest title for such property in them.

S. 1664

GSA is opposed to S. 1664, a bill "To amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to the Federal Emergency Management Agency as if it were within the Department of Defense and to amend the Federal Civil Defense Act of 1950 to authorize the Federal Emergency Management Agency to loan to State and local governments property transferred to such agency from other Federal agencies as excess property."

Under this bill, FEMA would be authorized to obtain DOD excess personal property on a priority basis over all other Federal agencies' needs, including the use of Government agencies' excess in lieu of new procurement. The bill would, in addition, give FEMA a priority in the acquisition of Federal civil agency excess personal

property over the donation program. S. 1664 would authorize FEMA to acquire excess personal property and make it available to State and local governments for civil defense purposes.

In 1976, after several years of studies and numerous hearings, Congress passed P.L. 94-519 which significantly changed the policies and procedures on the transfer of excess personal property to non-Federal activities.

As stated earlier, the objective of P.L. 94-519 was to combine into a single system the distribution of surplus personal property to non-Federal activities. In our experience and that of the States and other eligible participants, P.L. 94-519 has proven to be sound legislation. S. 1664, if enacted, would give FEMA a priority and would seriously compromise the effectiveness of P.L. 94-519.

By way of background, FEMA was formed from a number of agencies. Among these agencies was the former Defense Civil Preparednesds Agency (DCPA). Prior to its becoming a constituent agency of FEMA, DCPA was an agency within DOD and as such could obtain excess property from the military services/defense agencies before it was declared excess to the General Services Administration and made available to any other civil agency of the Government. Property so acquired was then loaned to State and local governments. After it was merged into FEMA, the procedures relative to the use of excess personal property changed in two respects: first, as a civilian function, civil defense could no longer qualify for a priority in distribution of DOD property as it had when it was an element of DOD; second, if the application was made under a project grant, the payment of 25 percent of the original acquisition cost of the property was now required under the terms of P.L. 94-519. As a result, FEMA elected to discontinue acquiring excess personal property for its grantees. It is important to note here that these same project grantees are among those non-Federal activities eligible to receive surplus personal property through the GSA donation program. Under that program, surplus property is distributed to eligible donees by a State agency, established by law, operating under State plan which is approved by the Administrator of General Services, with stringent accountability and compliance requirements. The State agency is required to distribute Federal surplus property to eligible donees on a fair and equitable basis taking into consideration the condition and acquisition cost of the item, and providing surplus property to State and local governmental activities according to needs and use. Donation recipients include educational, public health, public safety, as well as civil defense activities, and a multitude of other worthy institutions and organizations.

If enacted into law, S. 1664 would provide FEMA project grantees with a priority over all such qualified recipients in the GSA donation program. It would authorize a multi-million dollar program by FEMA without the requirements for inspection, accountability or audit. We believe the S. 1664 would be disruptive to an established and equitable distribution system by singling out one particular group of non-Federal activities to acquire Federal excess personal property.

This concludes my prepared statement. I would be happy to respond to any questions the Subcommittee might have.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR STEVENS

S. 134

QUESTION:

Under current law, surplus property may be donated for use in connection with a public airport. Could you describe how this program has worked and for what kind of purposes the property has been used?

ANSWER:

REAL PROPERTY - Under the provisions of section 13(g) of the Surplus Property Act of 1944, as amended, surplus property may be conveyed or disposed of to a State, political subdivision, municipality, or tax-supported institution for a public airport without monetary consideration.

GSA notifies eligible public agencies that property which may be disposed of for use as a public airport has been determined surplus. Copies of these notices and a copy of the holding agency's Report of Excess are transmitted to the regional office of the Federal Aviation Administration (FAA). FAA determines and informs GSA as to whether the property is suitable, essential, or desirable for development, improvement, operation, or maintenance of a public airport.

GSA transmits copies of the plan of use and application submitted by an eligible public agency to the FAA regional office. FAA in turn submits to GSA a recommendation for disposal of the property for airport purposes or informs GSA that no recommendation will be made. Upon receipt of a recommendation, GSA may, with the Administrator's approval, convey the property to the public body. The FAA has the sole responsibility for enforcing compliance with the terms and conditions of the disposal. In the event of noncompliance, the property reverts to the United States.

Real property is conveyed for aviation areas based on established FAA guidelines, criteria, and requirements for such areas. Approval for nonaviation revenue-producing areas is given only for such areas as are anticipated to generate net proceeds which do not exceed expected deficits for operation of the aviation areas applied for at the airport.

PERSONAL PROPERTY - The Surplus Property Act of 1944, as amended, provides for the donation of surplus personal property determined by the Administrator of the Federal Aviation Administration to be essential, suitable or desirable for the development, improvement, operation or maintenance of a public airport.

Lists and catalogs of reported Federal surplus property are forwarded to the regional offices of the FAA for their review. FAA sends copies of the lists and catalogs to the local airports for their review and screening. Screeners from the local airports review the property at the holding agency and then make applications through FAA for Federal surplus property needed for airport development purposes. Special items of property screened by the local airport representatives and not on the eligible property list must be justified and approved by FAA before application is forwarded to GSA for approval.

Flyable aircraft are not transferred for donation for public airport purposes.

QUESTION:

No specific donee categories are named in S. 134. Would this enable property donations to private concerns?

ANSWER:

Yes, private parties would be eligible to receive donations.

S. 1422

QUESTION:

What is the current procedure by which states may receive surplus real and personal property for criminal justice facilities? How would this bill change that?

ANSWER:

REAL PROPERTY - Currently, eligible State and local governmental bodies can acquire surplus property through negotiated sale provided the estimated fair market value of the property and other satisfactory terms of the disposal are obtained. S. 1422 would allow states to acquire property for criminal justice facilities at no cost and with no use restrictions.

PERSONAL PROPERTY - Public Law 94-519, October 17, 1976, gave the Administrator of General Services the authority to allocate Federal surplus personal property to the States on a fair and equitable basis for distribution by donation to any public agency for public purposes. Donation to public agencies for use in criminal justice facilities for public safety meets this public purpose criterion. Therefore, there is no need for separate or additional legislation as is proposed.

QUESTION:

What happens to the proceeds which GSA realizes from surplus real and surplus personal property sales?

ANSWER:

Net proceeds from the sale of surplus real property are deposited in the Land and Water Conservation Fund. Proceeds from the sale of surplus personal property are covered into Miscellaneous Receipts of the Treasury.

QUESTION:

Do you have any idea how much revenue the Government might forego on an annual basis by granting criminal justice activities eligibility for surplus real property donations?

ANSWER:

We are unable to estimate the annual revenue loss as a result of S. 1422 as GSA would have no discretionary authority over such disposals. As presently written S. 1422 gives criminal justice facilities priority over all other public benefit disposals which would allow any surplus real property upon recommendation of the Attorney General, to be donated to any State for the construction or modernization of criminal justice facilities.

From the current inventory, GSA is disposing of property (which definitely would be subject to S. 1422) with a revenue potential between 20 - 30 million.

QUESTION:

What other types of activities are now eligible to receive surplus real property donations?

ANSWER:

Public benefit activities eligible to receive surplus real property at a monetary discount are health, education, park and recreation, wildlife conservation, historic monuments, airports, low and moderate income housing, replacement housing related to certain acquisitions, Federal aid highways and power transmission lines.

QUESTION:

There are no conveyance restrictions placed on the property transferred by this bill, nor any oversight provision which would ensure the continued appropriate use of the property. Would you recommend that such conditions be attached?

ANSWER:

Yes, we strongly recommend that the proposed bill be revised to safeguard the interests of the United States. The attached letter and attachments from the Department of Justice (DOJ) dated October 30, 1981, includes recommendations agreed upon by GSA and DOJ.

S. 1444

QUESTION:

There are no conveyance restrictions placed on the property transferred by this bill. To avoid potential windfalls would you recommend placing conditions on the resale of this property after title passes to the State or local agency?

ANSWER:

We would not recommend any restrictions to the title on property held by civil defense organizations and agencies. Under S. 1444, FEMA must certify to the Administrator that the property is currently being used for the purposes originally received. Any property not so used must be reported to GSA to be disposed of in accordance with the Federal Property Act. To place restrictions on the transfer of title would require FEMA to continue accountability and perform surveillance after title had passed to the State or local agency. The restriction would defeat the very purpose of the proposed legislation. FEMA advised that they have approximately 30,000 line items on loan with an acquisition cost of approximately $162 million, and that this program does not have any priority with respect to expenditure of resources.

Senator STEVENS. I believe Senator Grassley has come in.

Senator GRASSLEY. Yes, Mr. Chairman.

Senator STEVENS. I understand, Senator, you are here on S. 1422, your bill. We are happy to have your statement.

TESTIMONY OF HON. CHARLES E. GRASSLEY, U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Senator, is it all right if I have a staff member with me?

Senator STEVENS. Certainly. Happy to have her.

Senator GRASSLEY. Her name is Lynda Nersesian.

I am here in support of S. 1422. I commend you on your timely scheduling of this hearing—timely in the sense that it is only in the last 2 months that the administration has endorsed the donation of surplus Federal property to States for the construction of criminal justice facilities and specifically for the construction of prisons.

Recently the Attorney General's Task Force on Violent Crime endorsed this type of legislation in their final report issued on August 17 of this year. The report cites continuously documented public testimony and statistics indicating a higher conviction and prosecution rate for violent crime. This combined with the public's demand for harsher and longer sentences for perpetrators of these crimes has resulted in correctional systems facing unprecedented increases in prison populations.

Presidential Counselor Edwin Meese III, addressing the criminal justice section of the ABA in New Orleans last month, promised prompt administration action on the task force recommendations, indicating that priority would be given to the question of prison overcrowding. These sentiments were echoed in remarks at the annual meeting by Vice President George Bush and Attorney General Smith as well.

In the Senate, we currently have Senators Gorton, Domenici, Cochran, Moynihan, Jackson, Durenberger, Schmitt, Hollings, Danforth, Hawkins, and Hayakawa as cosponsors of this bill. Congressman Leo Zeferetti has introduced a bill on the House side as H.R. 4450 with 29 cosponsors.

Specifically, this bill would authorize the Administrator of GSA, upon the recommendation of the Attorney General, to donate property after the State had submitted its drawings and specifications for criminal justice facilities. This would, of course, include the extension or improvement of an existing facility.

This bill would not change the current procedure regulating the disposal of surplus property. It would add the Attorney General to the present list, which includes the Secretary of HHS, the Secretary of Education, the Secretary of Defense, the Secretary of the Interior, and the FAA Administrator as interests to which the Administrator of GSA is authorized to assign real surplus property in his discretion and according to the standard of highest and best use of the property at that time.

It is no secret that States are currently faced with a question of how to eliminate overcrowding in prisons so as to fashion programs that rise to constitutionally accepted levels of legality and human-

ity. These constitutionally acceptable standards as we all know are unpredictable and increasing all the time. Society cannot permit crime to go unpunished for want of prison space, and for the present prison is the only sanction available for violent crime. A revolutionary breakthrough in the range of available rehabilitative sanctions is not on the horizon.

Between 1978 and 1981, the number of State prisoners increased from 268,000 to 329,000, according to the Bureau of Justice statistics. Thus, State systems have over the past few years had to accommodate an increase of 60,000 beds.

The problem of overcrowding goes beyond corrections. Potentially it leads to a circumvention of the overall public and criminal justice system's intent to deal with violent offenders in a manner consistent with the gravity of the offense. Probation is meted out too many times instead of incarceration simply because the judges are aware that there is currently no prison space available for the offender in prison.

Mr. Chairman, I realize the time constraints that the subcommittee is operating under. Again I want to thank you for the opportunity to testify. I have a slightly different version and a longer version of my testimony that I would like to submit for the record.

Senator STEVENS. Thank you, Senator. It will be printed in the record in full following your testimony.

Can you tell me what the States are paying to acquire these properties today?

Senator GRASSLEY. That would be up to the bidding. Let me give you an example. The present process would be under the best-use rule, coupled with GSA's determination. But in lieu of that, for instance, Washington State wanted to use a facility that the Federal Government has. It uses McNeil Island. That is a former Federal prison. They pay $36,000 a month to use McNeil Island as a prison facility. That is one example I can give you and something that our bill would correct.

Senator STEVENS. Your bill would make that land available to them so long as they use it for that type of facility. Is that right?

Senator GRASSLEY. What my bill does is add to the list of Government agencies to have donated to them, it would add the Attorney General—and, hence, indirectly for the purpose of prison facilities—to the list of priorities along with HHS, FAA, the Secretary of Defense, Secretary of the Interior, so that we could give higher priority to this and the ability to donate surplus property.

Senator STEVENS. Won't your bill put other agencies to a disadvantage in the sense that we are bringing in another entity, criminal justice activities, that could acquire these lands or structures at no cost?

Senator GRASSLEY. To some extent, yes. But then it is no different, Senator, than any priorities that the Congress is going to establish. It seems to me that the direction of longer sentences, larger numbers of people being sentenced, the fact that we have no alternatives to prison for violent offenders, the fact that the Presidential Commission on Crime has reported that we need to have a Federal program attacking crime and increased Federal involvement with prison facilities is a suggestion, that, because of events of the last decade, should be put on this list of priorities. But let

me say, whenever this competition is involved, there is going to have to be a determination of best use of a facility that is going to be given to a State. So obviously if there is something that is not very useful for prison use, the GSA is not going make an administrative determination that is going to penalize HHS or Defense if it is a better use of the Federal Government's investment to use it for one of these departments that are presently on the list.

All we are doing is putting the Department of Justice and, hence, prison use on this list of possibilities. I would hope—or, hence, there wouldn't be any purpose of my legislation—that this would be given due consideration and lead to the use of this property, surplus property, for the States to relax and relieve prison population and overcrowding.

Senator STEVENS. I think you are right, Senator. I commend you for your bill. We will recommend as soon as possible that the subcommittee report the bill to the full committee and see if we can get it polled and acted upon as soon as possible.

Senator GRASSLEY. Thank you, Mr. Chairman.

[Senator Grassley's prepared statement, with attachment, follows:]

STATEMENT OF SENATOR CHARLES E. GRASSLEY BEFORE THE SENATE GOVERNMENTAL AFFAIRS SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE AND GENERAL SERVICES, HEARING ON S. 1422, October 15, 1981.

Mr. Chairman:

I certainly appreciate having the opportunity to testify today as to the merits of S. 1422. I commend you on your timely scheduling of this hearing -- timely in the sense that it is only in the last 2 months that the Administration has endorsed the donation of surplus federal property to states for the construction of criminal justice facilities and specifically for the construction of prisons.

The Federal Property and Administrative Services Act of 1949 provides the statutory means whereby most Federal real property holdings which Federal agencies find are no longer required for their needs and for the discharge of their responsibilities, are reported to the General Services Administration (G.S.A.). Once reported to the G.S.A., the property is subject to utilization by other executive agencies having a requirement for such property or disposal as surplus property in accordance with authorization provided in the Act.

Property is deemed "excess" when it is determined by the head of an agency that the property is not required for the needs and the discharge of the responsibilities of the agency. Property is deemed "surplus" when the Administrator of G.S.A. determines that the property is not required for the needs and the discharge of the responsibilities of all Federal agencies.

Under the Act, a provision exists for what is termed a Public Benefits Program. After it is determined that no continued federal use of the property is apparent, the property is offered to state and local governmental units and eligible non-profit organizations for such priorities as airports, hospitals, schools and recreational areas. Under the Public Benefits Program, the Administrator is authorized in his discretion to donate surplus real property to the Secretaries of Education, Health and Human Resources, Defense, Interior, and the Federal Aviation Administration.

The effect of this bill would be to allow states to acquire federal surplus lands at no cost for the construction or modernization of criminal justice facilities. These facilities would not be acquired at the cost of forsaking schools, hospitals, airports and recreation areas. Rather in the discretion of the

Administrator of the G.S.A., a determination would be made as to the "highest and best use" of the property which is the standard that the Administrator adheres to in all disposal plans. In essence, it is the state taxpayer who will gain. In Washington State, for example, the taxpayers are currently reimbursing the federal government $36,000.00 a month to use McNeil Island as a state prison. Under the provisions of this bill, this property could be used by the State of Washington at no cost.

Mr. Chairman, a bulletin put out by the Bureau of Justice Statistics in the Department of Justice, indicates that the prison population of the United States swelled by more than 20,000 during the first half of 1981. On June 30, 1981, State and Federal correctional institutions held nearly 350,000 prisoners, compared with less than 330,000 yearend 1980, and 300,000 yearend 1977. I ask consent that this bulletin be placed in its entirety in the record.

It is no secret that states are currently faced with the question of how to eliminate overcrowding in prisons so as to fashion programs that rise to constitutionally acceptable levels of legality and humanity. Society cannot permit crime to go unpunished for want of prison space, and for the present, prison is the only sanction available for violent crime. A revolutionary breakthrough in the range of available rehabilitative sanctions is not on the horizon.

Mr. Chairman, thank you for the opportunity to testify.

U.S. Department of Justice
Bureau of Justice Statistics

Bureau of Justice Statistics Bulletin

Prisoners at Midyear 1981

September 1981

This issue of the Bulletin inaugurates the publication of midyear statistics on the Nation's prisoner population. These statistics, like the comparable annual data, are available only because of the high level of support and cooperation provided to the Bureau by State correctional officials throughout the country.

We have asked them to bear the extra burden of supplying population data each quarter because of the need to follow closely the mounting pressures on the Nation's correctional systems. To minimize the additional reporting burden placed on the States, we have not sought to collect each quarter the full range of detailed statistics reported by the States at yearend.

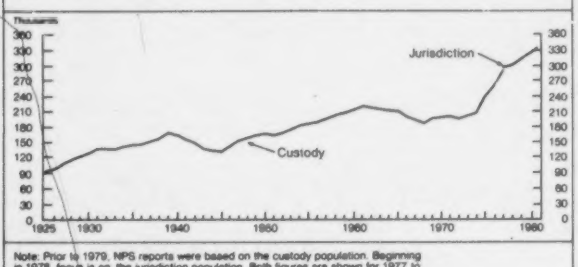
These data are collected by the U.S. Census Bureau from the departments of corrections in the 50 States and the District of Columbia through the Bureau of Justice Statistics' National Prisoner Statistics program.

Benjamin H. Renshaw III
Acting Director

The prison population of the United States swelled by more than 20,000 during the first half of 1981 adding more persons to the rolls of the Nation's correctional institutions in 6 months than were added during the previous 12 months. On June 30, 1981, State and Federal correctional institutions held nearly 350,000 prisoners, compared with less than 330,000 yearend 1980 and 300,000 yearend 1977. The 6.2 percent increase during the first half of 1981 was equivalent to an annual growth rate of nearly 13 percent compared with increases of 4.5 percent in 1980 and just above 2 percent in 1979 and 1978. If this trend continues until yearend, prison population growth in 1981 will surpass the record set in 1975.

The number of Federal prisoners rose by 1,370 in the first half of 1981, reversing a trend that has cut the Federal prison population by one-fourth over the previous three years. Federal authorities attributed this change to more aggressive law enforcement at the Federal level and to a more conservative Federal parole policy.

Number of sentenced State and Federal prisoners, yearend 1925 – midyear 1981



Note: Prior to 1979, NPS reports were based on the custody population. Beginning in 1978, focus is on the jurisdiction population. Both figures are shown for 1977 to facilitate year-to-year comparison.

Figure 1

The overwhelming part of the total increase, nearly 19,000, occurred in State institutions. To cope with expanding populations, State correctional authorities employed a wide range of measures including tents, prefabricated buildings, double bunking, and early release. Facilities in some States housed almost twice their rated capacities and other States were relying heavily on space in local jails.[1] These increases were felt in almost every State. Only five States, most in the West, reported population decreases during the first half of 1981.

The largest correctional system in the United States, the Texas system, surpassed 30,000 during the first half of the year, adding over 1,000 inmates. Compared with many other States the rate of increase (less than 4 percent)

[1] The Bureau of Justice Statistics collects data on State prisoners housed in local jails on an annual basis at the end of each calendar year; it does not collect these data each quarter.

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Table 1. Prisoners under jurisdiction of State and Federal correctional authorities, by region and State, yearend 1980 and first and second quarter 1981

Region and State	Total prison population 12/31/80	3/31/81	6/30/81	Percent change from 12/31/80 to 3/31/81	12/31/80 to 6/30/81	Number of sentenced prisoners per 100,000 population 6/30/81[a]
United States	**328,695**	**338,087**	**349,118**	**+2.9**	**+6.2**	**147**
Male	**315,437**	**324,221**	**334,462**	**+2.8**	**+6.0**	**290**
Female	**13,258**	**13,866**	**14,656**	**+4.6**	**+10.6**	**12**
Federal institutions	**24,363**	**24,949**	**25,733**	**+2.4**	**+5.6**	**9**
State institutions	**304,332**	**313,138**	**323,385**	**+2.9**	**+6.3**	**137**
Northeast	**45,920**	**47,803**	**49,675**	**+3.7**	**+8.2**	**96**
Maine	820	830	845	+0.1	+1.9	62
New Hampshire	326	346	360	+6.1	+10.4	39
Vermont [b]	480	523	512	+9.0	+6.7	77
Massachusetts	3,268	3,369 [c]	3,436 [c]	+3.1	+5.1	60
Rhode Island [b,d]	814	875	894	+7.5	+9.8	69
Connecticut [b]	4,306	4,421	4,366	+2.6	+1.3	89
New York	21,829	22,804	24,167	+4.5	+10.7	137
New Jersey	5,884 [e]	6,070	6,598	+3.2	+12.1	86
Pennsylvania	8,182	8,365	8,497	+2.2	+3.8	71
North Central	**66,041**	**67,336**	**68,984**	**+1.9**	**+4.5**	**111**
Ohio	13,489	15,058	14,454	+11.6	+7.2	134
Indiana	6,683	7,182	7,614	+7.5	+13.9	131
Illinois	11,899	12,226	12,532	+2.8	+5.3	97
Michigan	15,124	13,787 [e,f]	15,137	-8.8	+0.1	150
Wisconsin	3,980	4,037 [g]	4,099 [g]	+1.4	+3.0	87
Minnesota	2,001	2,013	2,063	+0.6	+3.1	51
Iowa	2,513	2,579	2,578	+2.6	+2.6	88
Missouri	5,524	5,700	5,598	+3.2	+1.3	114
North Dakota	253	309	295	+22.1	+16.6	45
South Dakota	635	639	648	+0.6	+2.0	91
Nebraska	1,446	1,219	1,295	-15.7	-10.4	69
Kansas	2,494	2,575	2,671	+3.2	+7.1	113
South	**144,958**	**149,424**	**153,855**	**+3.1**	**+6.1**	**198**
Delaware [b]	1,474 [d]	1,572	1,558	+6.6	+5.7	201
Maryland	7,731	7,945	8,377	+2.8	+8.4	199
District of Columbia [b,d]	3,145	3,271	3,412	+4.0	+8.5	439
Virginia	8,920	8,701	9,155	-2.5	+2.6	164
West Virginia	1,257	1,299	1,313	+3.3	+4.5	67
North Carolina [d]	15,393	16,141	16,095	+4.9	+4.6	256
South Carolina	7,862	8,033	8,257	+2.2	+5.0	247
Georgia	12,210	12,481	13,396	+2.2	+9.7	238
Florida	20,735	21,097	21,579	+1.7	+4.1	217
Kentucky	3,608	3,672	3,776	+1.8	+4.7	103
Tennessee	7,022	7,293	7,693	+3.9	+9.6	168
Alabama	5,961	6,442	6,932	+8.1	+16.3	173
Mississippi	3,374	3,874	3,855	+14.8	+14.3	150
Arkansas	2,925	3,013	3,156	+3.0	+7.9	136
Louisiana	8,889	8,988	9,269	+1.1	+4.3	220
Oklahoma	4,571	4,921 [h]	5,078	+7.7	+11.1	168
Texas [e]	29,892	30,681	30,954	+2.6	+3.6	218
West	**47,413**	**48,785**	**50,871**	**+2.9**	**+7.3**	**113**
Montana	738	790	829	+7.0	+12.3	105
Idaho	817	865	907	+5.9	+11.0	96
Wyoming	534	506	504	-5.2	-5.6	107
Colorado	3,792	3,747	3,630	-1.6	-5.8	91
New Mexico	1,461 [i]	1,461	1,404	0	-3.9	100
Arizona	4,372	4,521	4,777	+3.4	+9.3	175
Utah	932	1,019	1,083	+9.3	+16.2	73
Nevada	1,839	1,914	1,925	+4.1	+4.7	241
Washington	4,382 [j]	4,496	4,881	+2.6	+11.4	118
Oregon	3,170	3,063	3,082	-3.4	-2.8	117
California [k]	24,569	25,413	26,792	+3.4	+9.0	107
Alaska [b]	822	891	950	+8.4	+15.6	155
Hawaii [b]	985	1,100	1,107	+11.7	+12.4	72

NOTE: Yearend 1980 prisoner counts may differ from those in Prisoners in 1980 because reporting officials are given the opportunity to revise their submissions.

[a] 1980 decennial census (April 1980) figures for resident population were used to calculate sentenced prisoners per 100,000 persons for both the States and the Nation as a whole. Sentenced prisoners in this case are prisoners with sentences longer than a year.

[b] Figures include both jail and prison inmates; jails and prisons are combined into one system.

[c] Figures for inmates under State jurisdiction but not State custody are not available.

[d] Figure excludes persons with a split sentence of more than a year, part in prison and part on probation, unless prison portion exceeds one year.

[e] Figure excludes 200 prisoners housed in local jails.

[f] Figure is for March 1, 1981.

[g] Figure excludes an unknown number of prisoners under jurisdiction of correction authorities but housed in mental institutions.

[h] Figure includes approximately 120 escapees.

[i] Figure may be understated because of record-keeping backlog.

[j] Figure excludes 85 State prisoners held in local jails.

[k] Figures exclude adult inmates under the jurisdiction of the California Youth Authority.

was small, but the Texas inmate population had grown by nearly 13 percent in 1980. During the 18-month period the system absorbed 4,400 inmates and resorted to housing inmates in tents and having inmates sleep on floors.

The three other State prison systems that have populations of more than 20,000—California, Florida, and New York—also registered large gains. California's and New York's both topped 2,000 and Florida added 850. Both California and New York have relatively recent laws requiring mandatory imprisonment for conviction of certain violent offenses and drug offenses. California also has a habitual offender statute as well that requires imprisonment for repeat offenders. In both States these laws were cited as contributors to growth.

Other States with large increases during the six-month period were Georgia (1,200), Alabama (1,000), Ohio (1,000), and Indiana (900). Alabama's prison population increased by 27 percent in 1980 and 1981. State officials attribute the increase to a sharp rise in the crime rate in the State and less frequent use of probation. Alabama is one of many States under court order to reduce its prison population. Indiana, one of the States to abolish parole completely, has an inmate population that grew by 34 percent during the 1980-81 period and now faces what State officials call a crisis. Indiana State prison officials are admitting 100 more inmates each month than they release, and most State institutions are now at double their rated capacity. The increase is attributed to the combined effects of rising crime and the absence of parole.

Table 2. Prisoners in State and Federal institutions

	Number	Percent increase over previous period
Midyear		
1981	348,695	6.2
Yearend		
1980	328,695	4.5
1979	314,457	2.3
1978	307,276	2.4
1977	300,021	—

The largest numbers of inmates have been admitted to the prisons of the larger States, but smaller States have not been exempt from prison population pressures. For example, North Dakota, Utah, and Alaska, even though their combined prison population is less than 2,400, each experienced a rise in prison population of more than 15 percent during the first six months of 1981. If they each continue at the same rate until yearend they will experience annual growth rates of 36 percent (North Dakota), 35 percent (Utah), and 34 percent (Alaska).

All in all, 14 States posted gains of more than 10 percent during the first half of 1981, and another five States had gains of close to 10 percent. As unprecedented as these increases were, for several States they occurred on top of especially large increases during 1980, compounding the effect for the period as a whole. For example, prison populations increased by 25 percent or more during the 18-month period in six States: North Dakota (59 percent), Indiana (34 percent), Hawaii (29 percent), Alabama and Arizona (27 percent), and Alaska (25 percent). Both

Table 3. Changes in prison populations for selected States from 12/31/79 to 6/30/81

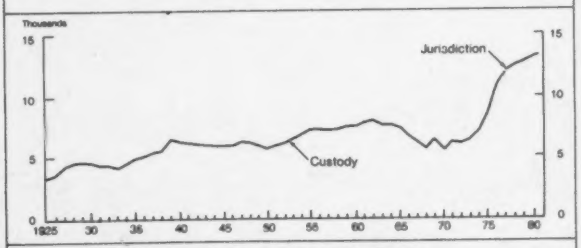
State	12/31/79	6/30/81	Percent change
North Dakota	186	295	58.6
Indiana	5,667	7,614	34.4
Hawaii	856	1,107	29.3
Arizona	3,749	4,777	27.4
Alabama	5,484	6,932	26.8
Alaska	760	950	25.0
Colorado	2,668	2,630	-1.4
Minnesota	2,094	2,063	-1.5
Oregon	3,179	3,082	-3.1
New Mexico	1,556	1,404	-9.8

Alaska and Hawaii operate combined jail-prison systems, and part of their increase was in their jail population. Officials in Hawaii cited tightening up of bail and of release on own recognizance procedures as increasing their pretrial detainees and stricter parole procedures as increasing their sentenced population. North Dakota, which is not experiencing space problems, attributes its 59 percent increase to the boom atmosphere created by energy exploration.

Four States—Colorado, Minnesota, New Mexico, and Oregon—managed to decrease their prison populations during 1980 and 1981, but the combined decrease was only 320 inmates. In 1978 Colorado passed a presumptive sentencing law that reduced the average length of sentence served in that State. However, this effect has been largely offset by an increase in new court commitments. A Minnesota official attributes that State's lack of growth to sentencing guidelines that take into account prison capacity and to increased use of parole. New Mexico's decrease is part of the aftermath of the prison riot that occurred early in 1980. The use of probation in New Mexico has increased by 30 percent, resulting in a decrease of 17 percent in the number of inmates under a minimum-security classification. Oregon, under court order a year ago, has revised its parole guidelines and increased reliance on probation to hold down its inmate count.

Record increases in the prison population were accompanied by record incarceration rates.[2] The United States now imprisons 147 persons for every 100,000 in the general population. Incarceration rates vary

Number of sentenced female State and Federal prisoners, yearend 1925 – midyear 1981



Note: Prior to 1979, NPS reports were based on the custody population. Beginning in 1979, focus is on the jurisdiction population. Both figures are shown for 1977 to facilitate year-to-year comparison.

Figure 2

[2]Incarceration rates are based only on those prisoners sentenced to more than a year to minimize differences between States with combined jail-prison systems and those without.

markedly among the States reflecting a wide range of factors from degree of urbanization to the age-sex composition of the population to social, economic, and cultural influences. On June 30, 1981, Vermont's incarceration rate was 39; North Carolina's was 256. Both States form part of a larger pattern. New England States tend to have the lowest incarceration rates and Southern States the highest. The District of Columbia, a wholly urban area, had a rate of 439 per 100,000 population.

The rate of growth for the female prison population during the first half of 1981 exceeded that for prisoners as a whole. During the first six months of 1981 the number of women in prison grew at a rate equivalent to 22 percent a year. At midyear the number of female inmates was 14,656, a gain of 1,400 in six months. This was by far the most substantial gain recorded in the female offender population since the series began in 1925. Nevertheless, women still constitute only 4.2 percent of the total prison population.

Further reading

The Bureau of Justice Statistics Bulletin Prisoners in 1980 reports prison population developments during 1980. A final report containing additional detail will be published later in 1981 under the title Prisoners in State and Federal Institutions on December 31, 1980. Annual reports under the same title are available for the years 1971 through 1979.

Other Bureau of Justice Statistics Bulletins include Measuring Crime, February 1981, The Prevalence of Crime, March 1981, and Capital Punishment 1980, July 1981.

To obtain copies of any of these publications or to be added to the Bulletin mailing list, write to the Bureau of Justice Statistics, Washington, D.C. 20531.

Bureau of Justice Statistics Bulletins are prepared principally by the staff of the Bureau. Carol B. Kalish, chief of policy analysis, edits the Bulletins; Marilyn Marbrook, head of the Bureau publications unit, administers their publication, assisted by Julie A. Ferguson. The principal author of this edition is Ms. Kalish.

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Bulletin

Senator STEVENS. Mr. Dickey, Assistant Associate Director, State and Local Programs and Support Directorate of FEMA, and Mr. Mealy and Mr. Jett.

TESTIMONY OF JOHN E. DICKEY, ASSISTANT ASSOCIATE DIRECTOR, STATE AND LOCAL PROGRAMS AND SUPPORT DIRECTORATE, FEDERAL EMERGENCY MANAGEMENT AGENCY, ACCOMPANIED BY JOSEPH MEALY, STATE AND LOCAL PROGRAMS AND SUPPORT DIRECTORATE, AND GEORGE JETT, GENERAL COUNSEL

Mr. DICKEY. Good morning. I am John Dickey, Assistant Associate Director, Emergency Management Programs Office, State and Local Programs and Support Directorate, Federal Emergency Management Agency. I am pleased to have this opportunity to present FEMA's position on S. 1444, a bill authorizing the General Services Administration to donate to State and local governments certain Federal personal property loaned to them for civil defense use. I also want to comment on S. 1664, a bill to amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to FEMA as if it were within DOD, and to amend the Federal Civil Defense Act of 1950 to authorize FEMA to loan to State and local governments property transferred to such Agency from other Federal agencies as excess property.

We in FEMA have regarded the contribution project loan program, sometimes referred to as the excess property program, as a particularly effective benefit to the preparedness capability of State and local levels of government. We understand the interest of many individuals, organizations, and communities in the program, since it has offered substantive resources to their emergency management capability.

S. 1444 authorizes the donation of Federal personal property now on loan to State and local governments for their use as civil defense equipment pursuant to the Civil Defense Act of 1950, as amended. The property was originally acquired for military operations and support programs by components of DOD and was subsequently transferred to the Defense Civil Preparedness Agency, under the DOD property reutilization program for loan to State and local civil defense organizations. DCPA participated in the DOD property reutilization program as an organizational unit of DOD, with certain responsibilities under the Federal Civil Defense Act.

DCPA loaned the property to States and local governments in lieu of making financial contributions under section 201 of the Federal Civil Defense Act, retaining title to the property as part of the Defense Department reutilization program and not as property excess to DOD needs. As such, property placed on loan by DCPA was not covered by Public Law 94-519 which allowed for a "one-time" donation of personal property then on loan to Federal grant program participants.

Effective July 15, 1979 all DCPA functions, authorities, and property were transferred by Executive Order 12148 from DOD to this agency. Accordingly, since July 15, 1979, because civil defense func-

tions are no longer assigned to a unit of DOD, property of DOD which had been used for loan to State and local defense units can no longer be made available for new loans, and the "excess property" program was terminated. FEMA retains responsibility for the management of the inventory of loaned property. S. 1444 would allow the Administrator of GSA to donate the property in-place to State and local governments, and relieve FEMA of its current responsibility.

We believe this bill and a comparable bill, H.R. 1856, best express FEMA's overall position, in that they are consistent with Public Law 94-519 and its provisions for the management of excess property, and that they require no expenditure of FEMA staff or other resources in managing this program. Some further comment on each of these points may be helpful.

Public Law 94-519 envisioned a universal scheme for distributing surplus property. As previously noted, prior to enactment of this statute, Federal agencies were able to obtain "excess" property still being screened for further Federal use and loan it to their grantees under a variety of different programs. To minimize this fragmentation and help establish efficiency, economy, and equity in distributing Federal property for public purposes, Public Law 94-519 established the surplus property donation program as the major system for State and local governments to obtain property from the U.S. Government. While Public Law 94-519 did not prohibit Federal agencies totally from obtaining excess property for grantees, it severely restricted the circumstances under which this action was proper. As a result, the Administrator of GSA has been able to establish an equitable and effective program for distributing surplus property through State agencies for authorized public purposes. Allowing FEMA to obtain excess property on a priority basis and to furnish it to States and local governments would be a step, and in our view an unnecessary one, toward the disorganized situation which Congress intended Public Law 94-519 to correct.

There are other proposed legislative alternatives; namely, S. 1664, and an equivalent bill, H.R. 436, which seek to define a FEMA entitlement to the DOD reutilization program as if it were a DOD agency, thus setting a special FEMA/DOD relationship.

S. 1664 and H.R. 436 go further than this, however, and amend section 202 of the Federal Property and Administrative Services Act to allow FEMA to obtain property excess to the needs of other Federal agencies and loan it to State and local governments for civil defense purposes.

Prior to the effective date of Public Law 94-519, DCPA and other Federal agencies claimed property categorized as excess and loaned it to State and local agencies and certain nonprofit organizations for various public purposes. Section 3 of Public Law 94-519 amended the Federal Property and Administrative Services Act to severely restrict this authority by requiring Federal agencies to pay the Treasury 25 percent of the original acquisition cost of the equipment before it could be distributed.

FEMA does not support enactment of S. 1664 or H.R. 436, as it applies to new loans of property, even while fully acknowledging that the DCPA loan program benefited local emergency services. FEMA does not endorse legislation which would essentially except

it, as an agency, from the basic Federal property management processes, or which would serve to counteract the recently enacted reforms and revisions to the Federal Property Act. Also, additional FEMA personnel would be required to administer a "loan" program if one were authorized. Should Congress support such an authorization, it is believed that the property should be donated rather than loaned; this would eliminate the need for accountability and Federal overhead.

FEMA has carefully considered all of the alternatives presented to date because we are supportive of the objectives sought by States and localities. In principle, and given the disposition of the matter of the current inventory through the mechanism envisioned in S. 1444, we could support a proposal that would enhance access by State and local government to equipment no longer required by the Federal Government that would contribute to emergency management capability. And we believe, again, that any proposed method for access to Federal equipment should avoid imposing unnecessary FEMA controls and supervision, and should not require additional resources, either in staff or funding.

Thank you for the opportunity to comment. I shall be glad to answer any questions.

Senator STEVENS. Thank you. Just one question. Do you have authority already to donate property for purposes similar to S. 1664?

Mr. DICKEY. Not that I am aware of.

Mr. JETT. No, we do not, Senator.

Senator STEVENS. There is no authority now for you to donate property to State or local governments for any purpose?

Mr. JETT. No, sir. We have statutory authority to acquire property under section 201 of the Federal Civil Defense Act. That takes in acquisitions supported by appropriations. We have not sought appropriations to buy property for States for many years. The loan program in some respects substituted for that provision. But we have no authority to donate.

Senator STEVENS. What about fire departments? Don't you assist fire departments?

Mr. JETT. Yes, sir, but not in the acquisition of property. The Federal Fire Protection and Control Act has no provision in it——

Senator STEVENS. Who does handle the property? I know there is surplus and excess property that goes to fire departments. Who handles that?

Mr. JETT. I believe it is handled by GSA under their excess and surplus donation program.

Senator STEVENS. But under existing law would you acquire this property that S. 1664 covers? Would it come through your agency?

Mr. JETT. I am sorry, Senator. Let me see if I can answer that.

What we would do under S. 1444 is to donate property already located in State and local government units, donate it in-place and transition from what had been a loan propram where the Federal Government retained title to the property to a program where the title was indeed transferred to State and local governments.

Senator STEVENS. I am going to make sure I am not mixed up. I am talking about S. 1664 now, which would authorize property received by the Director to be transferred to a State or local government on the basis of a loan. As I understand the testimony here,

you say if the Congress decides to do that, you think it would be better to just have it be donated rather than have it loaned because of the administrative costs in keeping up with the loan. I understand that. But what I am asking is, under any of the provisions of existing law, will the property that Senator Roth is concerned with in fact be transferred to FEMA first?

Mr. DICKEY. We have no program now that is transferring any property to FEMA since we no longer are part of the Department of Defense. The program terminated July 15, 1979. What we have out there now is just what was loaned under the previous organizational arrangement. We are suggesting that it be donated under S. 1444.

Senator STEVENS. I guess my question is who gets it now? Your authority expired in 1979. Who now receives the property that you used to receive that is declared excess or surplus?

Mr. DICKEY. As a matter of fact, that whole program was a DOD reutilization program, so it is equipment that stays within the Department of Defense. When we were part of the Department of Defense, we were kind of down at the and of the list really in saying we are interested in that equipment as DCPA. Right now it stays within the Department of Defense until they no longer have a need for it. Then they declare it excess and it goes into the GSA surplus property mechanism and is available to the states and locals through that surplus property mechanism.

Senator STEVENS. But it is not available for civil defense under the program that used to be authorized which expired in 1979.

Mr. DICKEY. That is correct.

Senator STEVENS. All right. Thank you very much, gentlemen. There may be some questions for the record. I would appreciate it if you would respond to them. Other members of the committee may have questions to submit to you, too.

Mr. DICKEY. Thank you.

Senator STEVENS. Thank you for your courtesy.

[Mr. Dickey's responses to written questions submitted by Senator Stevens follow:]

RESPONSE TO QUESTIONS SUBMITTED
BY SENATOR STEVENS

S. 1444

Question: How many items would be affected by this measure?

Answer: There are approximately 30,000 items on loan at this time.

Question: What is their most recent appraised value? How accurate is that appraisal?

Answer: FEMA does not have a current appraised value of the equipment on loan. FEMA only has the original acquisition cost of the equipment, approximately $162 M. Much of the equipment had already been subject to long Federal use and had no further value to the Department of Defense when obtained by DCPA. No records were available of the age of the equipment when it was first acquired for loan, therefore FEMA has no method to estimate its current value.

Question: How much does FEMA know about what types of equipment these are and what their condition is?

Answer: FEMA has information on the types of equipment on loan by the National Stock Number. Through FY 1979, DCPA Regional personnel regularly inspected the equipment for condition, location and compliance with the justification for the equipment. Since that time FEMA has been unable to continue these inspections, however, if the equipment is no longer in usable condition or repairable, we find that it is being turned into GSA through the usual procedures.

Question: Do your inventories show how evenly this property has been distributed among the States?

Answer: Property was distributed on the basis of need and availability of equipment and the interest of State and local officials in the program. Those States and local communities that vigorously pursued property obtained considerably more property than other States that were not interested in or did not have nearby military bases as a source for equipment.

Question: Would you recommend some provision whereby property affected by this bill could be transferred to other States with civil defense needs before it was destroyed or made available for resale?

Answer: FEMA believes it be almost impossible to try to redistribute any property nor would any useful purpose be served. FEMA does not have sufficient staff to attempt to screen such property, nor any funds to transport the property if a user were found.

Question: This bill requires certification by the Director of FEMA that the property is being used for a purpose consistent with that for which it was originally furnished. What will FEMA do to determine whether use is consistent?

Answer: FEMA plans to follow the same certification procedures used to implement PL 94-519 in 1978 namely; distributing lists of the property on loan through the Regions to each State. Each State then will review the inventory with its locals and then supply the certification as to the category of each piece of equipment. FEMA will rely on the State's certification since it does not have the resources to actually check the property.

S. 1664

Question: Are civil defense property needs adequately met by current donation or sale procedures? If not, what measures would you recommend to better satisfy civil defense requirements?

Answer: Congress has indicated that civil defense is a joint responsibility of Federal, State and local governments. FEMA believes the current Federal GSA surplus property programs serve to support the State and local jurisdictions in their effort to meet their responsibilities. If there are specific instances where the civil defense needs are not being met the local jurisdictions have recourse to GSA. FEMA believes some civil defense agencies should utilize more effectively the current system.

Question: What, if any, changes in staffing and other resources would FEMA need to meet the reqirements of this bill?

Answer: FEMA believes that it would have to significantly increase its resources to implement S. 1664. At a minimum each Region would need one manyear to help screen property for loan, one and half manyears to process the requests for property, and to keep the inventory current, and one manyear to perform audit on the property plus considerable travel funds to support this activity. Additionally, needs at Headquarters and the ADP center would also require a minimum of two manyears. State and local offices also would have to increase their staffs.

Question: Could you describe the kinds of activities which are considered civil defense functions for the purpose of surplus property donations today?

Answer: There are a number of civil defense activities that could require surplus equipment in support of them. Each specific action would require an application for the equipment with a civil preparendess justification. Some of these activities are: development of a communication and warning system, development of a command and control center, development of a radiological system, development of emergency water and fire systems, etc.

Question: Is there a clear-cut working definition which permits easy control to donations?

Answer: There is no one single definition that applies to all the various civil defense functions that would be suitable for equipment. Each particular case should be judged on its own merits against civil preparendess requirements.

Senator STEVENS. I see now the distinguished chairman of our committee, Senator Roth, is here. I assume, Senator, that you are here with Mr. Ellingsworth, Director of the Sussex County Department of Emergency Preparedness.

TESTIMONY OF HON. WILLIAM V. ROTH, JR., U.S. SENATOR FROM THE STATE OF DELAWARE

Chairman ROTH. Thank you, Mr. Chairman. I am very pleased to be here this morning and want to thank you for holding these hearings on a matter that I think is of particular importance.

My primary reason is not to testify myself but to introduce to the subcommittee Wayne Ellingsworth, who is, as you know, a constituent of mine, but, more importantly, a long-time participant in State and national civil defense activities.

Mr. Chairman, Wayne is currently Director of the Sussex County Department of Emergency Preparedness and has been in the department since 1966. He has served as a key aide to Gov. Sherman Tribbitt during the 4 years he served as our chief executive.

Wayne has long been involved with emergency preparedness in his capacity as a state representative to the U.S. Civil Defense Council, and he is a member of the Delaware Peninsula Civil Defense Association.

Most importantly, Mr. Ellingsworth has been a long-time advocate of volunteer fire and ambulance services. He has worked long and hard to insure that State and local emergency preparedness services are effective and able to cope with any conceivable disasters or emergencies.

To do this, he has sought to acquire, as most officials in the emergency preparedness field do, equipment and tools as economically as possible. As you well know, one of the best sources of readily available equipment has been the Federal Government which annually has some $1 billion of equipment available for use by State and local governments, nonprofit groups, and others.

Mr. Chairman, this equipment is invaluable to local emergency preparedness groups. Most of the emergency preparedness operations at the local level are operated by volunteer fire associations and fire houses. In my own case, there are over 9,000 volunteer firemen in Delaware. You talk about voluntary organizations, this

is one voluntary organization that does work, that does function and provide service. But because of their voluntary status, they have few resources, little time or personnel to find equipment in good repair.

I believe, in keeping with the urging of President Reagan that we use voluntary services more, we should do all that we can at the Federal level to make their job easier. I hope my legislation will assist them in their efforts.

Mr. Chairman, I thank you for your time, and I am honored to introduce Mr. Ellingsworth to testify.

Senator STEVENS. Thank you, Senator. We are happy to have Mr. Ellingsworth here.

We are happy to have your statement, Mr. Ellingsworth.

TESTIMONY OF WAYNE ELLINGSWORTH, DIRECTOR, SUSSEX COUNTY DEPARTMENT OF EMERGENCY PREPAREDNESS, GEORGETOWN, DEL.

Mr. ELLINGSWORTH. Thank you, Chairman Stevens, for extending to me the opportunity to testify at this public hearing on S. 1664. I would like to begin by thanking our Delaware Senior Senator, Bill Roth, for introducing this legislation in the 97th Congress of the United States.

I am testifying this morning in behalf of several agencies and organizations who are in support of S. 1664. Mr. Chairman, I have provided you with what I hope will be a sufficient number of copies of a booklet for each subcommittee member and the committee's staff. Much of the material included in this booklet are copies of correspondence to Senator Roth in support of S. 1664 and will serve as support material to my testimony. I shall not prolong this hearing by reading the correspondence as I am sure that your subcommittee staff will review these documents and report their findings to the full committee.

I will, however, Mr. Chairman, report for the record that the booklet has copies of letters of support for S. 1664 from Howard Workman, President of the Sussex County Council, a political subdivision of southern Delaware; Mr. Joseph Conaway, the County Administrator of that political subdivision; Mr. Richard Calhoun, President of the Sussex County Volunteer Firemen's Association, which represents 21 volunteer fire companies and about 2,000 volunteers; Mr. Elmer Ennis, President of the Sussex County Fire Chiefs' Association, which represents the past and present fire chiefs of Sussex County; Mrs. Chere Riordan, Secretary of the Sussex County Ambulance Association, an association which represents 18 volunteer ambulance companies or about 18 people; and Colonel Norman Cochran, Superintendent of the Delaware State Police.

Each of these individuals ask that I inform you of their position on this matter.

As Delaware's appointed State Representative of the United States Civil Defense Council, I have written a letter to Senator Roth supporting S. 1664.

In addition to the aforementioned communications, Senator Roth will be receiving within the next few hours a certified copy of a resolution adopted by the full conference of the United States Civil

Defense Council, which is conducting its 30th annual conference this week in Denver, Colorado. Their resolution, which was adopted Tuesday, October 13, 1981, calls for immediate passage of S. 1664. A copy of that resolution can also be found in your booklet.

The United States Civil Defense Council has over 3,000 members in its organization, 1,000 associates and 2,200 who represent local governments in disaster preparedness services. Those of us in the disaster preparedness business certainly understand the importance of providing a better public service with less public funds. We are convinced a program that loaned declared excess equipment from the Department of Defense to State and local governments would prove cost-effective to all concerned. The life of equipment loaned through such a program would be extended and the loan of equipment would prevent local governments from appropriating funds to purchase similar equipment.

Further, if local governments assured the Department of Defense that all equipment on loan would receive preventive maintenance, DOD would be assured of a greater stockpile of resources should a national emergency require the equipment on loan being recalled to a Federal stockpile. I personally think that an excess equipment loan program is vital if local, State and Federal governments are going to reduce duplication in the providing of disaster preparedness services.

Mr. Chairman, I would like to convey to you and this subcommittee an experience that I as a local director of an emergency preparedness agency had during the blizzard of 1979. The particular snowstorm dropped 26 inches of snow in 7 short hours. Fire trucks, ambulances, police cars and snowplows were paralyzed and could not respond to any emergencies. Our State and county agencies are not equipped to handle such a large snowstorm. Being a mideastern State, heavy snowstorms are unusual in our area; therefore, it is uneconomical for our governments to purchase heavy snow removal equipment to accommodate a snowstorm that might occur ever 20 years.

Fortunately, we had obtained, through a previously administered Federal excess equipment loan program, 41 three-quarter ton, four-wheel drive vehicles. These vehicles were assigned to emergency agencies located in every geographical area of Sussex County for utilization in an emergency. The 41 four-wheel drive vehicles, driven by firemen, policemen and ambulance personnel were the only vehicles that could respond to medical and other emergencies until the Delaware National Guard arrived in our county. Even then, these vehicles continued to transport patients, supplies, and emergency personnel to all points around Sussex County. It was impressive to see how well this equipment operated.

I am happy to report to you that not one life was lost to this blizzard, even though 13,000 families were without electricity for between 2 to 4 days, hundreds of motorists were stranded on our highways in their cars, and hundreds of people experienced medical difficulties.

Most of our success in saving lives during this blizzard was attributed to those 41 four-wheel drive vehicles that my department had acquired through the excess equipment program then administered by the Defense Civil Preparedness Agency.

This, Mr. Chairman, concludes my testimony on behalf of S. 1664. Let me again thank you for allowing me to make this presentation. I hope the subcommittee will see fit to make a favorable recommendation to the Senate Committee on Governmental Affairs.

Senator STEVENS. Mr. Ellingsworth, who paid to maintain that equipment you had on loan before that blizzard?

Mr. ELLINGSWORTH. Senator, the requirements of the agency that provided the loan to local governments required that the equipment be kept in as good a condition as it was when we received it. In the case of Sussex County, those fire companies, municipalities, ambulance organizations, that we loaned that equipment to, maintained and reconditioned all of the equipment that we received from the Federal Government.

Senator STEVENS. As I understand the comments made by FEMA here this morning, if we are going to reinstitute this program, they would prefer the property be donated to local governments. Do you have any comment on that?

Mr. ELLINGSWORTH. I think that that approach from our point of view at a local level would be even better than the loan program, Senator.

Senator STEVENS. Thank you very much.

Senator, we appreciate your taking the time to come. We will be happy to report your bill to the full committee as soon as possible.

Chairman ROTH. Thank you, Mr. Chairman.

Mr. ELLINGSWORTH. Thank you, Mr. Chairman.

[Additional material submitted by Mr. Ellingsworth follows:]

U.S. CIVIL DEFENSE COUNCIL

AN INTERNATIONAL ASSOCIATION OF LOCAL CIVIL DEFENSE ORGANIZATIONS

EXECUTIVE COMMITTEE

PRESIDENT
WILLIAM R. BRADY
7101 FARM RD. 3002
CLEVELAND, TEXAS 77539
(713) 337-2573

PRESIDENT-ELECT
DOROTHY J. LEWIS
COURTHOUSE, ROOM 106
HOLTON, KANSAS 66439
(913) 364-2811

IMMEDIATE PAST PRESIDENT
JOHN RODGERS
FIRE HEADQUARTERS
HARRISON, NEW JERSEY 07029
(201) 483-0611

SECRETARY
WILLIAM J. McBRIDE
200 NORTH AVENUE, EAST
WESTFIELD, NEW JERSEY 07090
(201) 232-6890

TREASURER
ALLEN W. BUNTING
COURTHOUSE
SNOW HILL, MARYLAND 21863
(301) 632-1311

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[illegible]

REGION II
[illegible]

REGION III
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COURTHOUSE
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GREENWOOD, S. C. 29646
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REGION LAW ENFORCEMENT CENTER
FRONT & LIBERTY STREETS
MANKATO, MINNESOTA 56001
(507) 625-5551

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(504) 876-2300

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COURTHOUSE
OLATHE, KANSAS 66061
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REGION VIII
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COLORADO SPRINGS, COLO. 80901
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REGION IX
MICHAEL J. REGAN
200 NORTH MAIN STREET
ROOM 300, CITY HALL EAST
LOS ANGELES, CALIFORNIA 90012
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COURTHOUSE
EVERETT, WASHINGTON 98201
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EXECUTIVE SECRETARY
J. HERBERT SIMPSON
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PORTSMOUTH, VA. 23705
(804) 393-6532

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senate
3215 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Roth:

Let me take this opportunity, on behalf of the local Emergency Preparedness directors of the State of Delaware, to thank you for introducing S-1664.

Declared excess property within the Department of Defense has, in the past, been very beneficial to Emergency Preparedness organizations. We were very disheartened when state and local governments lost the ability to acquire excess property from the Department of Defense as a result of Presidential Reorganization Plan Number 3 of 1978 (Emergency Preparedness). Prior to this administrative change, Delaware had increased its Emergency Preparedness capabilities by obtaining generators (to provide emergency power to shelters); 4-wheel drive vehicles (to transport supplies and people to and from low-lying coastal areas during flooding situations) and other equipment that proved extremely valuable in the protection of Delaware's citizen's and visitor's lives and property.

We certainly hope you are successful in obtaining congressional approval and support of the administration for S-1664.

Thank you for the support that Emergency Preparedness agencies in this state has enjoyed from you and your staff during your tenure as United States Senator.

Very sincerely yours,

Wayne D. Ellingsworth

Wayne D. Ellingsworth
State Representative
Delaware

cc: The Honorable Ted Stevens, United States Senator, Alaska
The Honorable Charles MaC. Mathias, Jr., United States Senator, Maryland

WDE/lw

UNITED STATES CIVIL DEFENSE COUNCIL

RESOLUTION

WHEREAS, the United States Civil Defense Council consists of political subdivisions within the territorial limits of the United States which have the objective of assisting the federal government in maintaining an effective civil defense (disaster preparedness) program; and -

WHEREAS, when the federal civil defense programs were assigned to the Department of Defense, Defense Civil Preparedness Agency, there was a program whereby equipment declared excess to the needs of the Department of Defense could be placed on loan to state and local governemnts for the purpose of improving their disaster response capability; and

WHEREAS, the United States Civil Defense Council still feels that the equipment loan program to state and local governments is cost effective since the life of the excess equipment is extended and it prevents the necessity for additional funds to be appropriated at the local level to purchase similar equipment; and

WHEREAS, the Honorable William V. Roth, Jr., Senator of Delaware, has introduced a bill (S. 1664) which will revive and continue this program by making supplies under control of the Department of Defense, that have been declared excess, available to the Federal Emergency Management Agency for loan to state and local governments;

NOW, THEREFORE, BE IT RESOLVED that the United States Civil Defense Council, meeting in regular session at their 30th Annual Conference, in Denver, Colorado, is in full support of this legislation and urges its immediate passage by the Congress of the United States.

Adopted the 13th day of October, nineteen hundred eighty-one.

AUTHENTICATED:

S/William E. Murray
William E. Murray
Chairman
Legislative Committee

S/William R. Brady
William R. Brady
President
United States Civil Defense Council

Sussex County Council

COURTHOUSE
GEORGETOWN, DELAWARE 19947

COUNCILMEN
W. HOWARD WORKMAN, PRESIDENT
GEORGE E. HILL, VICE PRESIDENT
RALPH E. BENSON
CHARLES W. COLE
WM. D. STEVENSON, SR.
A. GRAHAM BEITS, ATTORNEY

PHONE
856-7701, Ext. 317

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senator
3215 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Roth:

It has been brought to our attention that on September 25, 1981 you introduced into the 97th Congress S.1664. The Sussex County Council has reviewed this bill and is in complete agreement that State and local governments should again be afforded the opportunity to acquire declared excess property from the Department of Defense. The Sussex County Council has authorized our Director of the Department of Emergency Preparedness to testify in behalf of this bill at a public hearing in Washington on October 15, 1981.

Thanks for your support in this matter.

Very sincerely yours,

W. Howard Workman

W. Howard Workman, President
Sussex County Council

WHW/sww

cc: The Honorable Ted Stevens, United States Senator, Alaska
Mr. Wayne D. Ellingsworth

JOSEPH T. CONAWAY
COUNTY ADMINISTRATOR

Sussex County
COURTHOUSE
GEORGETOWN, DELAWARE 19947
302-856-7701

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senator
3215 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Roth:

The Sussex County Council held its weekly meeting today. An item that was brought to their attention was the bill that you recently introduced concerning State and local governments' ability to acquire declared excess property through the Federal Emergency Management Agency. Our Council recalls how beneficial the excess property (through a previous program) was to improving our Department of Emergency Preparedness's ability to protect the lives and property of citizens and visitors of this County. With the revival of such a loan program, this County Government looks forward to becoming even better prepared for potential disasters.

At today's meeting, Council agreed to forward communications to Senator Biden and Congressman Evans requesting their support of S.1664. Thanks for your continued cooperation in these matters.

Yours truly,

Joseph T. Conaway
County Administrator

JTC/sww

cc: The Honorable Ted Stevens, United States Senator, Alaska
Mr. Wayne D. Ellingsworth

STATE OF DELAWARE
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE POLICE
P. O. Box 430
DOVER, DELAWARE 19901

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senator
3215 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Roth:

It is my understanding that Senate Bill 1664, which allows the federal emergency management agencies to acquire declared federal excess property from the Department of Defense, will be voted upon very shortly.

I support the passage of this Bill, based on my past experiences in which the different Offices of Emergency Preparedness here in Delaware have been of a great assistance to us in supplying federal equipment.

Thanking you for your assistance, I remain

Respectfully yours,

Colonel Norman V. Cochran
Superintendent

NVC/mnm

...NT BEACH VOL. FIRE CO.
GLADES VOL. FIRE CO.
BRIDGEVILLE VOL. FIRE CO.
DELMAR FIRE DEPT.
DAGSBORO VOL. FIRE CO.
...LENDALE VOL. FIRE CO.
...NKFORD VOL. FIRE CO.
GEORGETOWN VOL. FIRE CO.
GREENWOOD VOL. FIRE CO.
GUMBORO VOL. FIRE CO.
INDIAN RIVER VOL. FIRE CO.

LAUREL FIRE DEPT.
LEWES FIRE DEPT.
MEMORIAL FIRE DEPT.
MILLSBORO VOL. FIRE CO.
MILTON VOL. FIRE CO.
MILLVILLE VOL. FIRE CO.
REHOBOTH BEACH FIRE CO.
ROXANA FIRE DEPT.
SEAFORD FIRE DEPT.
SELBYVILLE VOL. FIRE CO.

SUSSEX COUNTY
FIREMEN'S ASSOCIATION
ORGANIZED APRIL 30, 1929
Meets Fourth Tuesday In
Each Month Except December

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senate
3215 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Roth:

Just a note to inform you of how pleased this association was to learn that you had introduced S-1664.

The Federal Loan Program of excess equipment to local and state governments, that existed several years ago, was very beneficial to the volunteer fire and ambulance service in this county. Even though the equipment that we received on loan through the Sussex County Department of Emergency Preparedness was considered excess by the Department of Defense, many of our organizations were willing to recondition the equipment, whereby it could be used to benefit our volunteer service.

Most of the twenty-one (21) volunteer fire companies in Sussex County has on loan generators that provide emergency power to our fire and ambulance stations when community power is down during an emergency. Other stations utilize the generators on loan to them in a portable fashion in order to transport these generators to assist Sussex Countians during power outages.

In addition to the generators that have been so beneficial, we were also able to acquire approximately fifty (50) 4-wheel drive, M-37, pick-ups through the loan program. These pick-ups were reconditioned and are being used as field equipment that can travel across rough terrain to extinguish fires; thereby eliminating the possibility of damaging very expensive pieces of fire apparatus. These 4-wheel drive vehicles have proven to be perfect for the transporting of supplies and personnel during

evacuations in the low-lying coastal areas.

We sincerely appreciate your efforts to make it possible for emergency organizations, such as ours, to be able to secure excess property through a loan program as described in S-1664.

If this association can assist you in the passage of this legislation, do not hesitate to contact us.

Sincerely,

Richard Calhoun

Richard Calhoun
President

cc: The Honorable Ted Stevens, United States Senator, Alaska
The Honorable Charles MaC. Mathias, Jr., United States Senator, Maryland
Mr. Wayne D. Ellingsworth, Director, Sussex County Dept. of Emergency Preparedness

RC/lw

SUSSEX COUNTY FIRE CHIEFS' ASSOCIATION

Sussex County, Delaware

October 13, 1981

The Honorable William V. Roth, Jr.
United States Senate
3215 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Roth:

This association was very pleased to learn of the introduction of S-1664 into the United States Senate. We are in support of this proposed legislation and will assist you in any way to obtain its passage.

Past loan programs to state and local governments, as provided by Congress through the Department of Defense, were eliminated through the establishment of the Federal Emergency Management Agency and we were very dissatisfied when that occured.

Through your legislation it appears that volunteer organizations such as ours will benefit with the use of Department of Defense excess property again.

This association stands ready to assist you in any way to secure passage of S-1664. Thank you for your support in this matter.

Very sincerely yours,

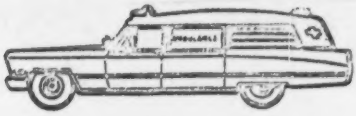
Elmer Ennis

Elmer Ennis, President

cc: The Honorable Ted Stevens, United States Senator, Alaska
The Honorable Charles MaC. Mathias, Jr., United States Senator, Maryland
Mr. Wayne D. Ellingsworth, Director, Sussex County Dept. of Emergency Preparedness

EE/lw

MID SUSSEX RESCUE SQUAD, INC.



LONG NECK AREA
R.D. 1#
MILLSBORO, DELAWARE 19966

13 October 1981

Senator Wm Roth
3215 Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Roth:

This Organization would like to go on record in support of the entire legislation, S-1664 authorizing the Department of Defense loaning any excess property to the Federal Emergency Mangement Agency.

Sincerely,
Chere Riordan,
Secretary

cc: Mr. Wayne D. Ellingsworth - Director - Sussex County Department Of Emergency Preparedness
Mr. Richard Calhoun - President - Sussex County Vol Fireman's Assoc.
Mr. Terry Jester - President - Sussex County Vol. Amb. Assoc.

SUSSEX COUNTY
VOLUNTEER AMBULANCE ASSOCIATION

INSTITUTED JUNE 4, 1980

13 October 1981

Senator Wm Roth
3215 Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Roth:

This Association would like to go on record in support of S-1664 authorizing the Department of Defense to loan any excess property to the Federal Emergency Management Agency. The Association would like to support the bill in its entirety.

These supplies and equipment are of great benefit to all the fire and ambulance companies in Sussex County, in order to provide more efficient services during an emergencies.

Sincerely,
Chere Riordan
Chere Riordan,
Secretary

cc: Mr. Wayne D. Ellingsworth - Director - Sussex County Department of Emergency Preparedness
Mr. Richard Calhoun - President - Sussex County Vol. Fireman's Assoc.

Senator STEVENS. Mr. W. H. DuBose, director, Macon-Bibb County Civil Defense, Macon, Ga.

Mr. DUBOSE. Thank you, Mr. Chairman.

Senator STEVENS. I understand you are here as the director of the Macon-Bibb County Civil Defense of Macon, Ga.

Mr. DUBOSE. Also the U.S. Civil Defense Council.

Senator STEVENS. Fine. Please proceed.

TESTIMONY OF W. H. DUBOSE, DIRECTOR, MACON-BIBB COUNTY CIVIL DEFENSE, MACON, GA.

Mr. DUBOSE. Mr. Chairman and members of the subcommittee, I would like to express my appreciation not only as a local civil defense director but as a representative of the U.S. Civil Defense Council to appear before you today on behalf of Senate bills 1444 and 1664.

The U.S. Civil Defense Council is an organization representing approximately 6,000 municipalities nationwide.

I have included with my testimony some pictures of various items obtained by Macon-Bibb County, Ga., Civil Defense through the excess property loan program.[1] At the end of each statement, I will attempt to answer any questions that you or the committee may have.

Once again, on behalf of the U.S. Civil Defense Council, I thank you for this opportunity.

Since the creation of the Federal Emergency Management Agency, the local civil defense program across the Nation has lost one of its most beneficial financial assistance programs. While the Defense Civil Preparedness Agency, DCPA, was a part of the Department of Defense, certain items—generators, water tankers, water pumps, vehicles, et cetera—excess to the needs of the Department of Defense could be made available for loan to local governments for use by their civil defense agencies. This was accomplished by the execution of a 5-year loan agreement between local government and the Defense Civil Preparedness Agency.

The property loaned under this provision was subject to recall by the Defense Department in the event of a national emergency or other situations requiring its use. Local government was required under the loan agreement to maintain the equipment in a state of readiness where it could be rapidly deployed by the Federal Government, if needed. It was also required that a Federal excess property identification sticker 8 inches in height be affixed to each piece of equipment. I would like to suggest that at the end of the 5-year loan agreement that this property be donated to the local and State governments. This will reduce bookkeeping and inventory costs to both the Federal and local governments.

This program was initiated to offset a shortage of Federal matching funds badly needed to purchase rescue and other lifesaving equipment at the local level. Additionally, the equipment provided hundreds of local governments, particularly the small incorporated areas and sparsely populated counties, an opportunity to obtain the needed equipment for lifesaving purposes that they could not have

[1] The pictures referred to have been retained in the subcommittee files.

afforded if they were required to purchase the equipment outright. Many thousands of dollars worth of Federal equipment, originally purchased by taxpayers' funds, has been loaned to local governments to provide a needed emergency service for the taxpayers and producing the following results:

One, useful life of the equipment has been extended without additional cost to taxpayers.

Two, a tremendous saving on the part of the Federal, State, and local governments has been realized due to the fact that new equipment did not have to be purchased with local and Federal funds.

Three, important equipment needs of local government were met which probably would not have been possible due to shortage of local and Federal funds.

Four, the Federal Government actually returned to the taxpayers a part of their tax dollars in the form of useful equipment.

Five, hundreds of small communities were able to obtain valuable equipment for lifesaving programs that would not otherwise have been available to that political subdivision.

Failure to continue a program of this nature will seriously affect the response capability of political subdivisions during natural, manmade or hostile attacks upon this country.

A 2½ ton excess military truck is used by this Department as a supply truck. This vehicle is loaded with 200 blankets, 100 stretchers, first aid supplies, and various other items that may be needed in the event of a large disaster.

A fire at a high-rise apartment complex for the elderly necessitated evacuation of all occupants to the ballroom of a large hotel in Macon. Litters and blankets were used as beds until other arrangements were completed.

During the record heat wave in the summer of 1980, with temperatures of 108 degrees for several days, these litters and blankets were transported by this vehicle to the Macon Coliseum where a shelter had been set up for people with no air conditioning or improper ventilation.

The excess military truck with an excess generator mounted on it is used almost weekly by this Department to assist local law enforcement agencies, fire departments, public works et cetera, for lighting. This vehicle provides lighting at fire scenes, vehicle accidents, woods or swamp searches for lost or missing persons, and areas damaged by floods, tornadoes, high winds, et cetera.

The local civil defense directors across the Nation would like to see Congress take the lead by enacting some type of legislation which would provide for:

One, Federal agencies having equipment over and above their needs other than armament notifying other Federal agencies of its availability before it is declared surplus to the needs of the Federal Government.

Two, when this process has been accomplished and the equipment has been declared excess to the needs of all Federal agencies, then it may be available to the Federal Emergency Management Agency for loan to State and local governments for their use in the disaster preparedness program.

Then, at such time as it has been determined that neither the Federal governor nor any one of the many States and their politi-

cal subdivisions has a need for the equipment and only then could the equipment be deciared surplus to the needs of the Federal Government and made available for sale to private enterprise. We believe that this law would support the President's anti-inflation program since it would reduce the requirement for purchasing equipment with Federal and local tax dollars.

Your assistance in bringing about such legislation would be greatly appreciated by all cities and counties nationwide.

Mr. Chairman, I also have a statement on S. 1444. You may have questions at this time on S. 1664. Do you want me to make the statement on S. 1444 first?

Senator STEVENS. You heard the recommendation previously that if the program should be reinstituted, it should be a donation rather than a loan program. Does your council have any comment on that?

Mr. DUBOSE. Yes, sir. There is definitely a difference in excess and surplus property. Surplus property, there is more of it, and in this type of equipment we are talking about in this testimony it is beyond repair. Excess property, the local and State governments have generally very little to do with it. Generally a tuneup will get this vehicle or piece of equipment in operation. This is not true with the surplus property program. I would love to see the DOD through FEMA just donate this piece of equipment to us with no strings attached. As I said earlier this morning, we do have equipment that is supposed to be used for this particular item and sometimes it may be beneficial to use it another way.

Senator STEVENS. I appreciate your comments. I would be happy to listen to your comments on S. 1444.

Mr. DUBOSE. All right, sir.

The first piece of excess property obtained by Macon-Bibb County Civil Defense was a 60-kilowatt generator acquired in September of 1972. This piece of equipment is still in use today as an alternate power supply at our county courthouse, which is also our alternate EOC in the event of destruction or damage to our primary EOC, which is our emergency operating center.

All of the equipment secured by the excess property program is not in as good condition as the above-mentioned generator. While this program was being administered by the Defense Civil Preparedness Agency, when a piece of equipment was no longer beneficial or maintenance costs were prohibitive, this equipment could be returned to the nearest military installation.

Since the formation of the Federal Emergency Management Agency, the local directors nationwide have had no legal vehicle in which to return excess property. An example of our problem is as follows: Macon-Bibb County Civil Defense has approximately 24 pieces of excess property and at this time we would like to dispose of 9 of these due to their poor condition and prohibitive costs of operation. We have one vehicle in our pool which we no longer use due to its high cost of operation. The average cost per mile for the period convering January through September 1980 included maintenance costs of $1.55 per mile, gasoline costs of 32.5 cents per mile, making the combined figure $1.87 per mile. Needless to say, this vehicle is no longer in service by this Department.

We would like to suggest at this time the Federal Government transfer local ownership to State and local governments who now have this excess property on their inventory. This would allow the State and local governments to dispose of equipment in poor condition and would relieve the cost of inventory and recordkeeping not only for State and local governments but also for the Federal Government.

I thank you, Mr. Chairman.

Senator STEVENS. Thank you very much.

I do believe that your position makes a lot of sense.

What does it cost you now, in your area, to keep track of this property that is on loan? Do you have to make reports from time to time on it?

Mr. DUBOSE. Nothing but inventory reports. We have an inventory that we make out. Everything comes to our State government through the FEMA regional office. We have a report we make out really as to the condition of this equipment. We had to do this on the hardware contract where we acquired this originally. This number has to correspond with the serial number and then list the condition. This is done periodically.

In our city, fortunately or unfortunately, every vehicle is on computer. Every maintenance cost is given back and charged to the individual department. So I probably have a better cost in mine than especially in the small rural communities.

Senator STEVENS. The piece of property you say you are not going to use anymore that you have on loan, you still have to maintain it, don't you?

Mr. DUBOSE. Yes, sir, we still have to maintain it. The vehicle will still crank up, but I can't afford $1.87 a mile for operation.

Senator STEVENS. You can't give it back to them, can you?

Mr. DUBOSE. No. The Robbins Air Force Base is approximately 15 miles from Macon. Under the DCPA paper we could deliver that to the Robbins Air Force Base, but I can't do it anymore.

Senator STEVENS. Thank you very much. You make a good case. I appreciate your taking the time to come.

Mr. DUBOSE. Thank you.

Senator STEVENS. Mr. Brennan, American Correctional Association.

TESTIMONY OF WILLIAM BRENNAN, EXECUTIVE ASSISTANT, AMERICAN CORRECTIONAL ASSOCIATION

Mr. BRENNAN. Good morning, Mr. Chairman. It is my pleasure to present the testimony of the executive director of the American Correctional Association, Mr. Anthony Travisono, who unfortunately could not be here today to testify in person.

I would like to summarize several of the major points of the prepared testimony we have submitted.

Senator STEVENS. Please. We will print it in full in the record following your testimony.

Mr. BRENNAN. Thank you, sir.

Mr. Chairman, it was a pleasure to hear the witnesses who have spoken before me this morning speak in favor of passage of S. 1422.

The problem of overcrowding in correctional facilities in our Nation is pervasive.

There are 39 States presently under court order for some charge of overcrowding conditions.

The concept and the notion which is proposed in S. 1422 has been advanced recently by the Attorney General's Task Force on Violent Crime in its final recommendations. It was also advanced in the President's speech before the International Association of Chiefs of Police last month in New Orleans.

Corrections costs are extremely high, even in the best of economic times. In 1981 dollars, the cost of maximum security, new construction, per cell, ranges from $75,000 to $95,000. For medium security, where the greatest need currently exists, the average per cell cost is between $50,000 and $60,000. And per cell cost for minimum security, on an average nationally, is around $18,000 per cell.

In addition to that cost, we estimate that it costs between $20,000 and $25,000 to maintain one prisoner per year.

This notion is not new. We have in the past acquired property under the current legislation, but it has been an infrequent process, because under the benefit program, we have only been able to acquire such property for use as educational facilities. It is very unlikely, given the overcrowding conditions, that States already burdened with that problem and financial problems would be able to pay the fair market value if the property was not transferred or conveyed as outlined in S. 1422.

I would like to say on behalf of the States and localities that they have expended enormous sums of money in support of correctional activities. It is anticipated from figures that have been collected by our association that in fiscal year 1980, States alone spent more than $5 billion for correctional activities. Figures we have calculated for fiscal year 1981 show that figure rose by an additional $300 million. It stands at $5,373,000,000-plus. State and local units of government are appropriating enormous sums of money. There is no sign that we are going to have decreased levels of prison population. The only time in the history of our country when we have seen a decrease in population has been during those periods when the United States has been actively engaged in war.

We in the corrections profession are gratified that you have brought this legislation to the committee today. We support it wholeheartedly. I am prepared to answer any questions you have.

Senator STEVENS. Thank you very much. I appreciate your comments. As I said, we will print your statement in the record in full.

Mr. BRENNAN. Thank you, sir.

[Mr. Travisono's prepared statement (with an attachment) submitted by Mr. Brennan, follows:]

STATEMENT OF ANTHONY P. TRAVISONO

Chairman Stevens and distinguished members of the Committee. The American Correctional Association (ACA), founded in 1870, is pleased to speak in favor of S. 1422, the surplus property legislation introduced by your colleague Senator Charles Grassley (R-IA).

S. 1422 will facilitate the acquisition of surplus federal property by states and units of local government for use as correctional facilities and for possible future correctional building sites. The problem of overcrowding in correctional facilities is pervasive throughout the nation. Thirty-nine (39) states are currently under court order to relieve overcrowded conditions. States and localities are running out of options to alleviate overcrowded conditions in state prisons and local jails. While crime and the response to it is an appropriate function of state and local government, the federal government does have a legitimate role in assisting other levels of government to alleviate the present national correctional overcrowding crisis.

As you are aware, the Attorney General's Task Force on Violent Crime advanced the notion of the transfer of federal property as contained in the recommendations of that Task Force. President Reagan, in his speech before the International Association of Chiefs of Police conference in New Orleans on September 28, 1981, indicated his support for such transfer of surplus federal property.

The Attorney General has established a national clearinghouse on surplus federal property suitable for use by corrections. This clearinghouse is established within the Federal Bureau of Prisons. The American Correctional Association has had a long, close relationship with the Federal Bureau of Prisons and, under the leadership of the Bureau's Director, Norman A. Carlson, we have greatly benefited from the expanded opportunity to share knowledge and expertise with and between the federal correctional system and the non-federal system.

Even in the best of economic times, correctional construction costs are extremely high. It is estimated that in 1981 dollars construction costs averages for the following types of correctional facilities per cell are as follows:

- Maximum Security $75,000 - $95,000
- Medium Security $50,000 - $60,000
- Minimum Security $18,000.00

Of course, these costs are capital costs only and are exclusive of maintenance and operating expenses. We need to rethink carefully the process by which those sentenced to confinement are classified. The overwhelming majority of offenders will be returning to society upon completion of their terms of imprisonment. The immediate needs for correctional space is for expanded medium and minimum security facilities.

The transfer of surplus federal property for use by corrections is not entirely new. The State of Washington, whose Director of Corrections, Amos Reed, presently serves as the President of the American Correctional Association, currently has a lease arrangement with the federal government for McNeil Island, a former federal prison. Washington State is currently reimbursing the federal government $36,000.00 a month to use McNeil Island as a state prison. Under the provisions of S. 1422, such transfer of unused federal facilities could be conveyed at no cost to states for such needed correctional use.

In fairness to states and localities that may choose to acquire surplus federal property for correctional use, it should be pointed out that such transfers are not in themselves giveaways. The federal radar station facility in Watertown, New York was recently conveyed to the State of New York as a medium security facility for 200 persons. New York State officials estimate that it will take six months and cost $4.5 million to convert the property for correctional use. That is no small investment for a state under the pressure of fiscal austerity. But then, New York State's prison system now has approximately 2,000 more inmates than it was built to accommodate.

States and localities have spent enormous sums of money in support of decent criminal justice activities. For example, in fiscal year 1979, the following expenditures were reported by the Bureau of Justice Statistics, U. S. Department of Justice:

TOTAL U.S. CRIMINAL JUSTICE EXPENDITURES
(IN BILLIONS)

	FY-78	FY-79	% Increase
Federal	3.1	3.3	4.7%
State	6.7	7.3	9.8%
Local	14.3	15.3	6.8%
TOTAL:	$24.1	$25.9	7.4%

Of total U.S. expenditures for fiscal year 1979, approximately $6 billion was spent on corrections activities. Fifty-nine percent (59%) was expended by local authorities. State governments spent approximately $3.4 billion on corrections activities. (Source: Bureau of Justice Statistics, 1/21/81.)

From data collected by the American Correctional Association, total state expenditures for correctional activities was $5,024,201,141 (billions) in fiscal year 1980, and $5,373,621,154 (billions) in fiscal year 1981.

With regard to the transfer of federal buildings, we hope the Committee could address the importance of transferring usable equipment, such as, communication systems, fire safety apparatus, emergency medical equipment, and the like, which in some cases may still be intact. In those cases where such equipment may be surplus, it should be conveyed as part of the facility inventory as rehabilitation and renovation would require that such support service equipment and apparatus exist to meet minimum fire and health standards.

We urge the Committee and the Congress to act favorably upon the merits of S. 1422. While it will not solve the prison crisis over the long term, it does promise to broaden the alternatives currently available to states and localities as they seek to find ways to constitutionally and humanely confine the increasing numbers of offenders being sentenced.

We thank the Committee for inviting the American Correctional Association to testify on S. 1422.

Prison Capacity for Male Offenders by Decade in Which Existing Institutions Were Built

Exhibit A

Note: The data upon which this table is constructed deal with bed space, not the number of inmates. Data from 1978 indicate that reported prison bed space is 243,500. The capacity shown here falls short of that figure. This discrepancy, however, is not so severe as to compromise the point of this table; i.e., to indicate when prison bedspace was built.

Decade Built	Number of Institutions Built	Total Bed Capacity Within Those Institutions
1800 - 1899	15% (62)	(29%) (64,668)
1900 - 1909	4% (15)	6% (13,012)
1910 - 1919	4% (16)	7% (14,657)
1920 - 1929	2% (8)	4% (8,166)
1930 - 1939	11% (46)	7% (16,758)
1940 - 1949	4% (17)	6% (13,619)
1950 - 1959	8% (33)	8% (18,210)
1960 - 1969	13% (57)	12% (27,090)
1970 - 1979	35% (148)	19% (41,844)
Date Not Ascertained	5% (23)	3% (5,598)
Total	100% (425)	100% (223,622)

Source: 1981 Juvenile and Adult Correctional Departments, Institutions, Agencies, and Paroling Authorities Directory, American Correctional Association.

Exhibit B

Prison and Jail Bed Space Capacity as Reported
by State and Local Officials

	Reported Bed Space Capacity - 1978[1]	New Bed Space Under Construction 1978 - 1982[2]	Total Bed Space Due to be Available 1982
Prison	243,500	47,191	290,691
Jail	233,900	66,237	300,137

Source: American Prisons and Jails, Vol. III, NIJ.
1. P. 46, Table 3.2.
2. Pp. 80-81, Tables 3.13 and 3.14.

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The following resolution was adopted by the American Correctional Association Delegate Assembly at its meeting in Miami Beach, Florida on August 20 during the 111th Congress of Correction.

RESOLUTION

Transfer of Federal Property

WHEREAS: the current problem of overcrowding in correctional facilities is extremely widespread; and

WHEREAS: the high cost of prison construction prohibits many states and local jurisdictions from expanding existing prison capacity; and

WHEREAS: the Attorney General's Task Force on Violent Crime recommends that the Attorney General work with appropriate governmental authorities to make available, as needed and where feasible, abandoned military bases for use by states and localities as correctional facilities; and

WHEREAS: the Attorney General's Task Force on Violent Crime further recommends that the Attorney General work with appropriate governmental authorities to make available, as needed and where feasible, federal property for use by states and localities as sites for correctional facilities;

THEREFORE, BE IT RESOLVED:

That the American Correctional Association urges Congress and the Executive Branch to make available, under the Federal Property Act, and at no cost, such abandoned facilities or buildings as may be available and feasible for use by states and localities as correctional facilities and that this action be applicable to negotiations currently underway.

-more-

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RESOLUTION
Transfer of Federal Property (Cont.)

BE IT FURTHER RESOLVED:

That the American Correctional Association urges Congress and the Executive Branch to make available federal property for use by states and localities as sites for correctional facilities.

Senator STEVENS. Mr. Harris?

Mr. HARRIS. Good morning, Mr. Chairman.

Senator STEVENS. Good morning. You are the Deputy Associate Attorney General from the Department of Justice. Your comments are directed to S. 1422. Is that correct?

Mr. HARRIS. That is correct, Mr. Chairman.

TESTIMONY OF JEFFREY HARRIS, DEPUTY ASSOCIATE ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. HARRIS. Thank you for the opportunity to testify this morning.

The Department of Justice supports S. 1422. We do have several suggestions with regard to that bill.

First, let me tell you that the Attorney General's Task Force on Violent Crime had two relevant recommendations in their final report. One was specifically what S. 1422 proposes to do; namely, to convey real property at no cost to States and localities in need of it for correctional facilities. The second was to create a statutory preference for correctional use over other uses.

As a result of those recommendations, the Department of Justice and the General Services Administration are now working together and will shortly have specific language recommendations with regard to S. 1422.

However, there are several things that I can say today that we would like to see as amendments to the bill.

First, we believe that the bill ought to be limited to conveyance at no cost for correctional purposes rather than any purpose in the criminal justice system. Our reading is that the greatest national crisis that we have in terms of public safety at the moment is the state of the correctional systems across the country in States and localities. That includes prisons and jails. We do not believe that there is an equivalent need or a case that can be made for courthouses, probation offices, and the like. Clearly correctional facilities are the principal area of crisis in our country in the criminal justice system. We would limit the donation of property to correctional purposes.

Second, we believe that the bill ought to allow conveyance for correctional purposes to localities as well as to States. As you know, Mr. Chairman, States run the prison systems and almost every locality has a jail. Jails in this country are in the same abysmal condition as prisons. They are overcrowded. Localities have the same need for surplus property for correctional purposes as do States. We would like to see a bill give the Government the flexibility to provide property to localities as well as States.

The last thing is I believe a technical amendment. We would like to see the bill speak in terms of real property. We have some question as to whether the term "property" would be read or interpreted by courts to include real property. We think that it ought to be spelled out clearly and the term "property" ought to read "real property" so there is no question as to the intent of the Congress if this bill were to be passed.

That is our position. As I said, the General Services Administration and the Department will shortly forward to you more specific language.

Senator STEVENS. We would appreciate it if you would send us specific language to accomplish the suggestions that you have made here this morning.

Mr. HARRIS. I will be happy to do that, Senator.

[Responses to questions from Senator Stevens and language recommendations follow:]

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 4, 1981

Honorable Ted Stevens
Chairman
Subcommittee on Civil Service,
Post Office, and General Services
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On October 15, 1981, the Subcommittee on Civil Service, Post Office and General Services, Senate Committee on Governmental Affairs, held a hearing to consider a group of similar bills elating to the donation of surplus federal property for specified public uses. One of these, S. 1422, authorizes the donation of surplus property to any state for the construction and modernization of criminal justice facilities.

Subsequent to our testimony in support of S. 1422, we received written questions from the Subcommittee on Civil Service, Post Office, and General Services, Committee on Governmental Affairs. The Department now responds to your inquiries as follows:

1. Has prison overcrowding led to any significant changes in probation rates?

2. Describe recent prison population trends in the United States.

I have taken the liberty of adding another question, "Has prison overcrowding led to any significant changes in parole rates?"

The United States does not maintain a national reporting system for probation. Two attempts to collect data were made in 1965 and later in 1976. In 1965 it was estimated that there were 258,000 felons and 201,000 misdemeanants under probation

supervision. A one-day count in 1975 showed 923,000 people to be under probation supervision. While querying the individual States about reasons for the dramatic prison population gains that occurred during the first six months of this year, the Bureau of Justice Statistics has collected information, which suggests that a larger number of people are now on probation than in 1975, but they are being placed under supervision at a declining rate. The numbers are increasing, but the use of probation as a sentencing alternative is declining. The same is true for parole.

The answer to your question, "Has prison overcrowding led to any significant changes in probation?", is no. It is probable, however, that the declining use of probation has had a substantial impact in generating prison overcrowding. The declining use of probation precedes overcrowding by several years.

Prison population rates in 1967 were at their lowest in 40 years. While the rates remained relatively stable for the next five years, after 1973 populations increased by more than a third. By January 1, 1980, 328,695 persons were under the jurisdiction of state and federal correctional authorities, and 295,000 of these were serving sentences of one year or longer. The nation's prisons were 20 percent above their rated capacities. The trend since 1974 has been accelerating as the table below shows.

Prison and Parole Population Trends
1974 - 1980

Year	Prison Population	Parole Population*
1974	218,590	155,100
1975	240,600	158,600
1976	262,800	160,900
1977	284,500	186,100
1978	294,600	185,100
1979	314,457	196,500
1980	328,695	207,000**
1981 7/1	349,118	215,000**

* Rate of use has been decreasing in relation to total dispositions.

** Estimates -- actual not available until next year.

As the above table shows, total numbers of prisoners have been increasing in numbers and at a rate in relation to total dispositions. On the other hand, parole, as a ratio of parole to prison populations, has been declining from .72 in 1974 to .63 in

1978. Both the decline in the use of probation at intake and the decline of parole at release have exacerbated the problem of longer sentences or time served generated by determinate sentencing.

I have asked the Bureau of Justice Statistics to forward their most recent summary of information on prison trends to you for your review. You should receive a copy of their bulletin, Prisoners at Mid-Year 1981, containing the latest available information on prison populations, and Probation in the United States: 1979, the first publication in the Bureau of Justice Statistics' effort to establish a standardized annual nationwide statistical series on probation.

Sincerely,

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 30 1981

Honorable William F. Roth, Jr.
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on S. 1422, a bill to amend the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) so as to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

The Department of Justice recommends enactment of this legislation if redrafted as suggested below.

The Attorney General's Task Force on Violent Crime recommended in its first report that the Attorney General work with the appropriate governmental authorities to make available, as needed and where feasible, abandoned military bases for use by states and localities as correctional facilities on an interim and emergency basis only. The report also asks the Attorney General to work with the appropriate governmental authorities to make available, as needed and where feasible, federal property for use by states and localities as sites for correctional facilities. There is clearly a need for additional correctional facilities, at the state and local levels, and the proposed legislation (S. 1422) appears consistent with the intent of the Task Force. However, the proposed bill covers all types of criminal justice facilities, including courts, offices, training and correctional facilities. This broad coverage will dilute the thrust and purpose of the bill and will not allow the correctional issues to be addressed with a sense of urgency.

The legislation, as now written, only authorizes donation of surplus property to states. While in some states local needs are legally met by state oversight, operation, or delegation, elsewhere local entities are legally independent, so that their specific inclusion is desirable.

In 1976, Congress enacted Public Law 94-519 amending the Federal Property and Administrative Services Act to eliminate the various separate personal property distribution systems carried on by various federal and state agencies and providing for the consolidation of many existing systems in one, thereby providing for a more effective and efficient program.

S. 1422 does not address the issue of a need for separate or additional authorization for disposal of surplus real property. There is, however, a need for separate authorization for the donation of surplus "real" property to states or political subdivisions for the construction and modernization of correctional facilities.

Currently, the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) permits free transfer of surplus federal property to states and localities for certain limited use, not specifically including correctional facilities. S. 1422 would clarify to permit free transfer of federal property to states for correctional facilities use. We believe this clarification is necessary.

Section (p)(1) of the Act would require the Attorney General to recommend to the Administrator of the General Services Administration (GSA) those states eligible for donation of federal property for the construction and modernization of criminal justice facilities. This would require the Department of Justice to establish a review procedure for screening applicants for the Attorney General's recommendation.

As a direct result of the findings of the Task Force on Violent Crime, the Attorney General directed the Bureau of Prisons to form a clearinghouse for correctional facilities. The clearinghouse, as it now operates, can provide information to concerned parties, as well as serve as liaison with GSA and the Department of Defense regarding potential correctional facilities, such as former military bases. We view the clearinghouse function as an information pipeline that is necessary, but independent of the surplus and disposal actions by the GSA Administrator. We would advise, therefore, that the bill be amended to reflect this.

Attached as TAB A is a draft bill which incorporates the revisions to S. 1422 outlined above.

We have also attached for your consideration suggested language for the legislative history to accompany the bill. See TAB B.

As previously stated, the Department of Justice recommends enactment of this legislation, amended as suggested in the attached draft bill.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

Attachments

A BILL

To amend section 203 of the Federal Property and Administrative Services Act of 1949 to provide for the donation of surplus property for correctional facility use.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), is further amended by adding at the end thereof the following new subsection:

"(p)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer or convey to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision or instrumentality thereof, surplus property determined by the Attorney General to be required for correctional facility use by the authorized transferee or grantee under an appropriate program or project for the care or rehabilitation of

criminal offenders as approved by the Attorney General. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States.

"(2) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection --

(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

"(3) With respect to surplus real property conveyed pursuant to this subsection, the Administrator is authorized and directed --

(A) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

(B) to reform, correct, or amend any such instrument by the execution of a corrective reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

(C) to (i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: Provided, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he or she shall deem necessary to protect or advance the interests of the United States."

Sec. 2. The first sentence of subsection (o) of section 203 of the Federal Property and Administrative Services Act of

1949, as amended (40 U.S.C. 484(o)), is further amended by revising the first sentence of such subsection to read as follows:

"(o) The Administrator with respect to personal property donated under subsection (j) of this section and with respect to personal or real property transferred or conveyanced under subsection (p) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section, shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year."

SUGGESTED LANGUAGE FOR LEGISLATIVE HISTORY

In consideration of the federal government's priority to assist states and local jurisdictions in their efforts to improve correctional programs and practices, alleviate stress on their corrections systems, or comply with judicial decrees, it is important to emphasize that the federal government has a responsibility to provide adequate assistance in fighting violent crime. In order to be responsive to the immediate needs of the correctional problem, it is important that the federal government deploy its resources to carry out their responsibility in a manner that is both equitable and expeditious.

In implementing this bill, the Department of Justice and the General Services Administration should fully appreciate the sensitivities involved in national law enforcement needs vis-a-vis other local land use interests with respect to surplus Federal real property. Accordingly, administrative procedures should be adopted and designed to make sure that (1) Federal real property is appropriately used consistent with its existing physical characteristics, thereby providing States and localities the full benefit of the Federal Government's investment in the property, and (2) decisions between correctional use proposals and competing proposals will be reserved to the Administrator of General Services so that the merits of each will be fully and promptly considered on the basis of the overall national interests involved.

First, if the real property determined surplus comprises facilities formerly used by the Federal Government as correctional facilities, the General Services Administration should screen such property with the Department of Justice prison needs clearinghouse and among States and local governments on the basis that the facilities and necessary supporting land are being made available only for State or local use for correctional facilities pursuant to the proposed legislation. If no applications for this purpose are received (or are not properly justified in light of the nature and value of the property), the property should then be made available for other purposes authorized by the Federal Property Act and related legislation.

Second, with respect to surplus real property not previously used for correctional purposes, such property should be screened among all authorized recipients for uses provided generally by the Federal Property Act and related legislation in accordance with our normal procedures. These properties should also be screened with the clearinghouse. Should an application for correctional use be received together with applications for other purposes, the selection of the grantee will be reserved to the Administrator of General Services on the basis of the justification submitted with the applications. The merits of each should be considered in light of all factors affecting use including the adaptability of the property for correctional purposes, its importance for these purposes, the benefits to be derived from other uses, and the character and value of the real property.

Senator STEVENS. Thank you very much. I appreciate your time.

We will print in the record statements received from the State of Alaska, and I want to indicate that the record will be open for a week for any other statements from States or local governments on the matters that have been covered this morning by the hearing.

There are no other witnesses, as I understand it. The subcommittee will stand in recess.

[Whereupon, at 11:05 a.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

92-474 O—82——7

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

97TH CONGRESS
1ST SESSION

S. 134

To amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor.

IN THE SENATE OF THE UNITED STATES

JANUARY 15 (legislative day, JANUARY 5), 1981

Mr. INOUYE (for himself and Mr. MATSUNAGA) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

---

A BILL

To amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following:

"(p)(1) Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to assign to the

Secretary of the Army for disposal, without monetary consideration, such surplus real property or personal property (exclusive of property the highest and best use of which is determined by the Administrator to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Secretary of the Army, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public harbor, as defined in the River and Harbor Act of 1970, or which, in the determination of the Secretary of the Army, is reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of such a public harbor, including property needed to develop sources of revenue from nonmaritime businesses at a public harbor.

"(2) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

"(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and in the event such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall revert in its then existing condition at the option of the Secretary of the Army to the United States; and

"(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Secretary of the Army to be necessary to safeguard the interests of the United States.

"(3) Subject to the disapproval of the Administrator within thirty days notice to him of any action to be taken under this subsection, the Secretary of the Army is authorized and directed—

"(A) to determine and enforce compliance with any terms, conditions, reservations, and restrictions contained in any instrument by which a transfer under this subsection is made;

"(B) to reform, correct, or amend any such instrument by the execution of a corrective, reformative, or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

"(C) to (i) grant leases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user, without monetary consideration, any right or interest reserved to the United States by any instrument by which such transfer was made if he determined that the property so transferred no longer serves the purpose for which it was transferred or that

such release, conveyance, or quitclaim deed will not prevent the accomplishment of the purpose for which such property was transferred, except that any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he shall deem necessary to protect or advance the interests of the United States.".

II

97TH CONGRESS
1ST SESSION

S. 1422

To authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 1), 1981

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

---

A BILL

To authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 484) is amended by adding at the end thereof the following new subsection:

"(p)(1) The Administrator is authorized, upon the recommendation of the Attorney General, to donate surplus property to any State for the construction and modernization

of criminal justice facilities. Such donation shall be without cost to the State except for the costs of care and handling of such property.

"(2) For purposes of this subsection:

"(A) The term 'construction' includes the preparation of drawings and specifications for criminal justice facilities; erecting, building, acquiring, altering, remodeling, improving, or extending such facilities; and the inspection and supervision of the construction of such facilities. Such term does not include interest in land or offsite improvements.

"(B) The term 'criminal justice facilities' means—

"(i) court facilities;

"(ii) law enforcement facilities including facilities used for police training;

"(iii) facilities used for the prosecution of criminal offenses and for public legal defender activities;

"(iv) facilities used for probation or parole authorities or for preadjudication and postadjudication of offenders or for the supervision of parolees;

"(v) facilities used for juveniles who have been adjudicated delinquent or who are neglected

juveniles awaiting trial or for juveniles receiving care or treatment;

"(vi) facilities used for the treatment, prevention, control, or reduction of narcotic addiction;

"(vii) correctional facilities; and

"(viii) any other facility used for any criminal justice purpose in the State.

"(C) The term 'facilities' means any buildings and related facilities, initial equipment, machinery, and utilities necessary or appropriate for the criminal justice purpose for which the particular building was constructed.

"(D) The term 'modernization' means any program or project designed to improve the operation of criminal justice facilities in any State, including projects designed to improve the care of and the rehabilitation of individuals subject to the criminal justice system.

"(E) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

97TH CONGRESS
1ST SESSION

S. 1444

To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 1981

Mr. THURMOND introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

---

A BILL

To authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all Federal personal property which—

(A) was transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) is, on the date of enactment of this Act, on loan to a State or a State and local government jointly under a written loan agreement executed by such Agency, and

(C) was transferred with the functions and property of such Agency to the Federal Emergency Management Agency,

shall be disposed of in accordance with subsection (b).

(b) Whenever the Director of the Federal Emergency Management Agency certifies that property described in subsection (a) is being used by the State or local government holding such property for a purpose consistent with the purpose for which the property was furnished, the Administrator of General Services shall transfer title to such property to the appropriate State or local government.

97TH CONGRESS
1ST SESSION

S. 1664

To amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to the Federal Emergency Management Agency as if it were within the Department of Defense and to amend the Federal Civil Defense Act of 1950 to authorize the Federal Emergency Management Agency to loan to State and local governments property transferred to such agency from other Federal agencies as excess property.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 9), 1981

Mr. ROTH introduced the following bill; which was read twice and referred to the Committee on Armed Services

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A BILL

To amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to the Federal Emergency Management Agency as if it were within the Department of Defense and to amend the Federal Civil Defense Act of 1950 to authorize the Federal Emergency Management Agency to loan to State and local governments property transferred to such agency from other Federal agencies as excess property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2571(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Federal Emergency Management Agency shall be considered to be an organization within the Department of Defense for the purpose of the furnishing of supplies to such agency under paragraph (1).

"(B) Notwithstanding the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483), any department or organization within the Department of Defense having excess property (as defined in section 3(e) of such Act) under its control shall make such property available to the Federal Emergency Management Agency before making such property available to any other agency or organization outside the Department of Defense.".

SEC. 2. (a) The Federal Civil Defense Act of 1950 is amended by inserting after section 206 the following new section:

"LOANS OF PROPERTY TO STATE AND LOCAL GOVERNMENTS

"SEC. 207. (a) Any property received by the Director of the Federal Emergency Management Agency as excess property transferred from any department or organization within the Department of Defense under section 2571(b)(2) of title 10, United States Code, may be loaned by the Director to State and local governments for the purposes of this Act.

"(b) Upon notification of the Administrator of General Services in accordance with the Federal Property and Administrative Services Act of 1949 by any agency other than a department or organization within the Department of Defense that such agency has excess property (as defined in section 3(e) of such Act) under its control, the Director shall be notified by the Administrator of General Services of the availability of such excess property. Any such property that is transferred to the Director under such Act may be loaned by the Director to State and local governments for the purposes of this Act.".

(b) The table of contents of such Act is amended by inserting after the item relating to section 206 the following new item:

"Sec. 207. Loans of property to State and local governments.".

AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS

JOHN A. CLEMENTS, President
Commissioner
New Hampshire Department of Public Works
and Highways

FRANCIS B. FRANCOIS
Executive Director

STATEMENT FOR THE
SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE AND GENERAL SERVICES
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

DONATION OF SURPLUS FEDERAL PROPERTY TO PUBLIC PORTS

by

FRANCIS B. FRANCOIS
Executive Director

October 15, 1981

Founded in 1914, AASHTO represents the departments concerned with highways and transportation in the states, the District of Columbia and Puerto Rico, to foster the development, operation and maintenance of an integrated national transportation system. The active members of AASHTO are the duly constituted heads and other chief directing officials of the member highway and transportation agencies.

92-474 147

EXECUTIVE OFFICE: 444 N. Capitol Street, N.W., Suite 225 Washington D.C. 20001 Telephone (202) 624-5800

Mr. Chairman and members of the Subcommittee on Civil Service, Post Office and General Services of the Senate Committee on Governmental Affairs, the American Association of State Highway and Transportation Officials supports the concept of the transfer of surplus federal property to public ports. We appreciate this opportunity to provide our views for the record on the subject.

For the record, the American Association of State Highway and Transportation Officials (AASHTO) is an association whose membership includes the departments of transportation and highways of the States, the District of Columbia and Puerto Rico. The policies presented in this statement were approved by our Standing Committee on Water Transportation, and subsequently approved by our Policy Committee, which requires an affirmative vote of at least two-thirds of the chief administrative officers of these departments.

AASHTO recommends that Congress enact the necessary legislation to permit the transfer of surplus United States real and personal property at no cost to public port agencies for the development, improvement, operation and maintenance of public ports. We thus support the intent of S.134, which would amend Section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus property for use in public harbors.

This position received support from both coastal and inland waterway states during voting this year by the AASHTO Standing Committee on Water Transportation. The Standing Committee is composed of representatives of all AASHTO member departments, and generally consists of the water transport officials within State departments of transportation. Our Policy Committee then approved the position on October 4, 1981.

Preliminary results of studies such as the National Waterways Study and the Waterway User Charge Study (mandated by Section 205 of the Inland Waterway Revenue Act of 1978) indicate significant future growth of traffic on the nation's water transportation system. At the same time, this significant facet of our freight transport system will become increasingly important to the nation, particularly in moving energy materials such as coal. This increased traffic will, as you know, place greater demands on facilities which are, in some cases, already at or near their capacities.

AASHTO is aware of cases where port facilities or their operations can be improved by the use of surplus federal property, which can be significant at facilities located adjacent to military installations, for example. The donation of this property can represent an opportunity for the federal government to aid the development of the water transport system without the expenditure of significant levels of funds. Specific examples brought to our attention of facilities which could be aided by such property donations are Honolulu Harbor and Barbers Point, Oahu, Hawaii, and Portland and Penobscot Bay in Maine, as well as the use in Maine of Navy drydock facilities. We have similarly been informed of facilities in Illinois which in the past could have been aided by such a property donation, had legislation such as S.134 been in place.

There exists in current law a precedent for this type of federal donation. The air transport industry in the United States is currently eligible to receive such property transfers. We feel that this eligibility should similarily be extended to all coastal, Gulf, Great Lakes and inland waterways public ports.

Besides the obvious economic benefits to recipient ports and the greater efficiency which would be gained for our water transport system by the use of surplus facilities in productive port activities, the use of such facilities would represent a minimum of adverse environmental impacts, compared with the development of comparable new facilities In fact, environmental and other

92-474 O—82——8

restrictions, high construction costs, and the use of land adjacent to ports for non-port activities now make the development of totally new port facilities or additions to existing facilities difficult, and in many cases impossible.

For these reasons, the American Association of State Highway and Transportation Officials requests your favorable consideration of legislation to allow the donation of surplus federal property to public ports.

* * *

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 14, 1981

Senator Ted Stevens
127 Russell Building
Washington, D. C. 20510

Dear Senator ~~Stevens~~ Ted:

You were kind enough to ask for my comments and suggestions on S. 134, S. 1422 and S. 1444, measures on which hearings will be held tomorrow. I would like to assure you that I support the measures contained in each of these bills. The donation of surplus property to both state and local government is, on the one hand, helpful to state and local governments, and, on the other hand, a wise use of public property for the broad public benefit. It is quite possible that the State of Alaska would be interested in the availability of properties for uses in connection with public harbors, criminal justice facilities, and civil defense uses. These measures appropriately formalize that policy which endorses donations of surplus properties by the federal government.

I would be more than happy to provide you, in the future, any further information in greater detail that you might need. At this time I can say, however, that these measures need no further improvement in order to accomplish the stated purposes, which may be of significant benefit to Alaska.

Thank you for this opportunity to provide comments to your office and for the record of hearings held with regard to S. 134, S. 1422, nd S. 1444.

Sincerely,

Jay S. Hammond by Okalla

Jay S. Hammond
Governor

cc: Senator Frank Murkowski
Congressman Don Young

State of Washington

October 26, 1981

JOHN SPELLMAN, Governor

OFFICE OF THE GOVERNOR

The Honorable Henry M. Jackson
United States Senator
137 Russell Building
Washington, D.C. 20510

Dear Senator Jackson:

Several months have passed since we last briefed you regarding McNeil Island. A number of events have occurred since.

We initially entered into an agreement with the Federal Bureau of Prisons, which expired June 30, 1981. Under that agreement we moved onto the Island on March 3, 1981. Since we did not have a lease on July 1, 1981, the state received a "Right of Entry" agreement with the General Services Administration (GSA) for the period from July 1, 1981, through October, 1981. The "Right of Entry" agreement is being extended until the lease is signed or the state obtains title to the Island. The lease will be a three-year lease, with two one-year options to renew for a total of five years.

The fact that both our U. S. Senators are sponsors for Senator Grassley's bill, S. 1422, is greatly appreciated. Congressman Zefferette has introduced a companion bill, H.R. 4450, in the House of Representatives. The passage of either of these bills would permit GSA to give abandoned Federal correctional facilities, such as McNeil Island Penitentiary, to state and local governments. I strongly request your active support in seeking the earliest possible passage of these measures. Additionally, Senator Jackson, I am most appreciative of the hearing you held on S. 1422 before your Senate Governmental Affairs subcommittee. Keith Angier, Director of the Washington State Department of General Administration, has discussed the Grassley bill with each of your staffs. He will be at your disposal and will continue to work with your staffs in this regard.

The current lease being negotiated for McNeil Island will cost the state of Washington $460,000 the first year. The cost increases significantly each following year. Those funds could more appropriately be used to offset other reductions in the Department of Corrections. The state is quite willing to continue to protect McNeil Island's wildlife habitat, which is of major concern to several Federal agencies, as part of its management responsibilities.

Although the cooperation between state and Federal officials has been admirable, we continue to experience some problems caused by the property disposition rules and regulations under which GSA operates. The following are some issues which we would appreciate your assistance in addressing:

- The GSA originally agreed to assess rent to the state only on the 63 acres mutually agreed to as "the prison." GSA has since found it necessary to assess rent for the houses now in use and for the farm buildings and adjacent lands and facilities when and if the state decides to use them. In addition to the increased rental costs which

92-474 152

Legislative Building • Olympia, Washington 98504 • (206) 753-6780 • (Scan) 234-6780

the state will have to bear, it has been necessary for us to amend our appraisal to cover those additional facilities. This is costly and time consuming.

- Substantial equipment had been removed from the Island or committed to other agencies prior to the start of our negotiations for the prison. The Federal Bureau of Prisons subsequently committed to us all of the existing equipment necessary to run a 500-man facility. Because of its governing policies GSA has found it necessary to open the Island to all Federal agencies for equipment shopping. Equipment lost in this process will have to be newly replaced by the state at today's costs.

- GSA is obligated to assess the property at fair market value. The application of that concept in regard to McNeil Island is very unreasonable. If it were not for the state's interest in and need for the Island for prison use, the Federal government would be required to maintain and protect it in perpetuity as a wildlife sanctuary. It would not be sold for commercial or residential development, which is the basis for a fair market appraisal. The state has been committed to maintaining the Island and the sanctuary at its own expense, either as lessee or as owner.

We are attaching, for your review and edification, a status report dated September 24, 1981, from Mr. William Callahan, Superintendent of the McNeil Island Corrections Center.

In summary, your assistance with the following would be helpful:

- Early passage of S. 1422 or H.R. 4450;

- Relief from the state's necessity to pay rent for prison staff housing and for the farm and its related structures and land;

- A moratorium on the further disposal of equipment necessary for the continued operation of the prison; and

- Relief from the fair market appraisal cost basis for rental or purchase.

Your efforts on behalf of the state of Washington are appreciated.

With best wishes,

Sincerely,

John Spellman
Governor

Enclosures

STATE OF WASHINGTON
John Spellman
Governor

DEPARTMENT OF CORRECTIONS
MEMORANDUM

Amos Reed
Secretary

TO: Amos Reed, Secretary
Department of Corrections

DATE: September 24, 1981

FROM: William L. Callahan, Superintendent
McNeil Island Corrections Center
WLC

SUBJECT: Status Report - McNeil Island Corrections Center

McNeil Island Corrections Center has been operating as a state facility since July 1, 1981, although the first state prisoners were transferred to the facility on March 3, 1981 on a contract basis with the Federal Bureau of Prisons. The following is a brief summary of operations to date, including a review of required Capital Projects and a synopsis of equipment transfers by the federal government.

Operations:

McNeil Island currently has a population of 358 state prisoners and 36 U. S. Marshal's prisoners for a total of 394 prisoners in custody. The institution is utilizing the two main inside cell blocks (#3 and #4 houses) for medium custody state prisoners and two small minimum custody units, (Summit House and Rainier Hall). In addition, #2 house is being operated as the U. S. Marshal's jail for Western Washington and as a segregation unit for state prisoners.

Bed space capacities for these living units are:

#3 and #4 houses	299 combined
Summit House	41
Rainier Hall	20
#2 house	60 (40 Marshal's; 20 state)
	420

Current filled staff positions number 256. All state inmates are assigned a seven hour per day job. All of the major institutional maintenance shops have been reopened and these staff supervise the inmate work program. Most of the work presently being done consists of catching up on maintenance which has been neglected for the past few years. This work entails plumbing, painting, electrical wiring, power house renovations, grounds maintenance, marine maintenance, road maintenance, etc.

In addition to the work program, the remedial education program commenced this month and the furniture factory will reopen on 10-5-81.

Full medical and dental services are being provided by the institution's hospital and three Unit Management teams provide counselling services and case management. A full time Chaplain began work this month and the volunteer program is well-established.

Major operational problems to date have been the run-down condition of the institutional facilities and the staff residences and the lack of some critical heavy equipment which was transferred to other federal agencies.

Capital Projects

Attachment "A" lists the essential Capital Projects required for the current biennium in order to bring the main institional facilities up to fire, health and security standards. Three guard towers were dismantled and sent to other federal institutions and two of these towers must be replaced in order to provide adequate perimeter security. Total Capital expenditures appropriated were 2.6 million dollars. An additional $586,875 is being requested in the second year of the biennium for repair of utilities, fuel storage tanks, water filtration plant, and electrical lines (Attachment C). This request does not include funding for rennovating the Camp Farm which will be submitted as a separate request.

Equipment

McNeil Island's major depreciated equipment inventory balance as of 11-30-79 was $1,947,561. The federal program operated 6 major institutional industries programs and the prison farm. All of the equipment and furnishings for these programs were transferred to other federal programs. Approximately 1.5 million dollars in depreciated major institutional equipment was transferred to other federal programs. Attachment "B" is a partial list of this equipment. (This list does not contain equipment transferred out of the industries and Farm Camp programs).

With the exception of certain equipment items determined by GSA to be related property necessary for the operation of the institution, i.e. passenger boats, one fire truck, institution beds and other such items, the remainder of the furnishings and equipment in the institution will be subjected to another federal agency surplus screening in October or November. This will mean the loss of additional equipment and furnishings even though most items are old and in poor condition. In summary, most of the equipment and furnishings were transferred to other federal programs. However, we are grateful for the equipment and furnishings currently at the institution as the program couldn't function without these items. If the next federal surplus screening receives much exposure, the institution could end up totally stripped of equipment and furnishings.

In conclusion, while the condition of the facility and the equipment has posed some major problems, the state and federal governments have provided to the state desperately needed prison bed space and McNeil Island has a stable and positive prison program in operation. The program potential of the main institution, the Industries facilities and the Camp Farm operation is unlimited. The institution, working in conjunction with other state departments such as Fisheries, Natural Resources and the Game Department, and with local Vocational and Community College programs, has the capability of providing vital services to the people of the State of Washington for many years to come.

Attachment A

CAPITAL IMPROVEMENTS REQUIRED TO MEET FIRE, HEALTH AND SECURITY STANDARDS

The capital projects set forth below are required in order to meet legal requirements, security standards, health and fire safety standards, and EPA requirements:

1. Renovate Cell Houses to meet fire and safety standards:

   One Cell House
   Three and Four Cell Houses
   Olympic Hall
   Cascade Hall

   $640,000.

2. Convert Two Cell House for use as a segregation unit:

   (Required to meet W.A.C. and ACA requirements)

   $96,000

3. Renovate Kitchen to meet state and ACA health and sanitation, legal requirements and standards:

   Steam clean
   Paint with fire retardant paint
   Regrout all floors and replace broken tiles
   Replace wall behind steam kettles
   Move dishwasher out of food preparation area
   Replace ventilation system
   Replace refrigeration system

   $228,800

4. Roof repairs — $238,000

5. Control Center improvements and replacement of essential fire and safety control panels — $26,000

6. Painting in shop areas, housing units and program areas with fire retardant paint — $70,000

7. Construct sewage system surge pond as mandated by EPA — $450,000

8. Construct the fourth guard tower and a new armory at southeast corner of perimeter fence. (Three of the six towers were disassembled and shipped to other federal institutions). Construct tower cupola-for 5 tower base — $100,000

9.	Replace dock floats at three docks	$180,000
10.	Repair ferry slip (on the island)	$100,000
11.	Architectural and consultant fees	$255,000
12.	Taxes on above	$135,000
		$2,422,800

In addition to the above, extensive repairs in other areas will be required during the next two years such as repair of leaking steam lines throughout the institution, replacement of most of the locks and road resurfacing. For renovating the cell houses to meet fire and safety standards, we are presently utilizing the plan developed by Bureau of Prisons to meet their own standards and requirements plus those requirements imposed by the Pierce County Fire Marshal.

Attachment B

Radio and Communication equipment - Replacement Cost	$96,000
Weapons, ammunition and riot equipment	$75,000
The Bennett - 150 passenger boat	$300,000
Fire Truck	$85,000
Truck, CMC 6 X 4	$20,000
Hydraulic presses	
Back-hoes	
Front end Loaders	
Bull Dozers	
Fork Lifts	
Pickup Trucks	
Carryalls	
Crew Trucks	
Microwave Ovens	
Video Equipment	
Dictating Equipment	
Air Compressors	
Portable Defibrillators	
Electrocardiograph Machine	
Microscopes	
T. V. Sets	
Portable Breathing Apparatuses	
Projectors and Cinemoscope Equipment	
Hobby and Crafts Shop Equipment	
Athletic Equipment	
Pool Tables	
Plumbing and Electrical Parts	
Three guard towers	

Additional Capital Improvements Needed which are not required to meet fire health and security standard

FORM C1 (REV 7-81)

STATE OF WASHINGTON

CAPITAL IMPROVEMENT PROGRAM SUMMARY

AGENCY NAME (1)	AGENCY CODE (2)
McNeil Island Correction Center	310

PRIORITY NO. (3)	PROJECT TITLE AND SOURCE OF FUNDS (4)	TOTAL COST ($)	PRIOR APPROPRIATIONS (6)	NEW APPROPRIATION (7)	ENSUING APPROPRIATIONS (8)
82-1	Renovate Fuel Storage Tanks	27,550.		27,550.	
82-2	Repair Water Storage Tanks	99,841.		99,841.	
82-3	Revovate Water Filtration	130,862		130,862.	
82-4	Electrical Transmission Lines	200,564.		200,564.	
82-5	Cold Application Roofs	41,325.		41,325.	
82-6	Insulate Island Staff Homes	68,875.		68,875.	
82-7	Renovate Powerhouse Chimney	8,954.		8,954.	

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

OCT 14 1981

Honorable William V. Roth, Jr.
Chairman, Committee on Governmental
Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of the Army on S. 134, 97th Congress, a bill "To amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor." The Department of the Army will express the views of the Department of Defense on this bill.

The bill would authorize the Administrator of General Services to assign to the Secretary of the Army for disposal, without monetary consideration, surplus real or personal property (except industrial property) which, as determined by the Secretary, is essential, suitable, or desirable to fulfill the immediate and future requirements of a grantee for the development, improvement, operation, or maintenance of a public harbor, including property needed to develop sources of revenue from nonmaritime businesses at a public harbor.

The Department of the Army, on behalf of the Department of Defense, does not favor enactment of the bill. However, because the bill has the potential for preferential disposal of surplus real property of the United States, the Committee may wish to obtain the views of the General Services Administration.

It is noted that Public Law 94-519 (90 Stat. 2451) amended section 203 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) to provide for the donation of Federal surplus personal property to States and local organizations for virtually every public purpose. Therefore, inclusion of surplus personal property in the bill appears unnecessary.

The Department of the Army recognizes that the proposed legislation would enable States, their political subdivisions, and other public bodies to develop in the public interest many worthwhile projects. However, in some instances, this legislation may permit a State or other public bodies to

Honorable William V. Roth, Jr.

fulfill, without cost, their obligations to provide real property interests for items of local cooperation involving civil works projects. This is contrary to the concept of local cooperation items for projects, authorizations for which normally require that the local sponsor provide the real property interests required, with the Federal Government responsible for construction and certain maintenance of facilities. Moreover, the bill could reasonably provide advantages to some States or other public bodies and not to others, depending upon the geographic location of available Federal surplus real property. The bill also would authorize donations of Federal property for the purpose of developing "sources of revenue from nonmaritime businesses at a public harbor." While the meaning of this latter provision is not entirely clear, it would appear to be to aid development of commercial facilities, unrelated to a project. Such facilities normally are provided or developed by the private sector where a need is apparent.

The fiscal effects of this legislation are not known to the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

William R. Gianelli

William R. Gianelli
Assistant Secretary of the Army
(Civil Works)

U.S. Department of Transportation
Office of the Secretary of Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 23 1982

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental
Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Department of Transportation on S. 134, a bill

> "To amend section 203 of the Federal Property and Administrative Services Act of 1949 to authorize the donation of surplus real or personal property for use in connection with a public harbor."

The purpose of the bill is to authorize the Administrator of General Services in his discretion to convey, without monetary consideration, to any state, any political subdivision or instrumentality of a state, or any public port authority such surplus real property and related personal property (except industrial property) which, in the determination of the Administrator (a) is essential, suitable or desirable for the development, improvement, operation or maintenance of a public harbor, as defined in the River and Harbor Act of 1970, or (b) is reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation or maintenance of such a public harbor, including property needed to develop sources of revenues from nonmaritime businesses at a public harbor.

The Department of Transportation is opposed to S. 134 for the reasons set forth below.

Personal Property

Public Law 94-519, effective October 17, 1976, enlarged on the categories of organizations, institutions and agencies eligible to receive Federal surplus personal property via donation. The development, operation or maintenance of a public harbor are included among the types of activities for which states, political subdivisions or instrumentalities of states and public port authorities are eligible to receive surplus personal property via donation. Therefore no additional legislation as proposed in S. 134 is required to accomplish this purpose.

In enacting Public Law 94-519, Congress provided that all Federal surplus personal property be distributed by a single state agency specifically established for that purpose by each of the states. S. 134 would circumvent the stated purpose of Public Law 94-519 by permitting the specified grantees to obtain property for public harbors directly from the General Services Administration (GSA) without going through their state agencies.

Real Property

Federal Property and Administrative Services Act of 1949, Section 203(e)(3)(H), as amended (40 U.S.C. 484(e)(3)(H)), authorizes the negotiated disposal of surplus property without restriction on future use, subject to obtaining such competition as is feasible under the circumstances, to a state, territory, possession, political subdivision thereof, or tax-supported agency therein, if the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation.

On February 25, 1982, the Director of the Office of Management and Budget testified before your Committee on a number of policy changes the Administration is undertaking in the area of real property disposal. One such policy change is the elimination of nearly all real property discount conveyances to State, local and nonprofit entities for public benefit use. The only exceptions will be for property to be used as correctional facilities and other property as determined by a high level policy review board.

The Department of Transportation wholeheartedly endorses the Administration's real property initiative. For this reason, as well as the others cited above, we oppose enactment of S. 134.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

John M. Fowler

John M. Fowler

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